MONTANA LEGISLATIVE HISTORY

Chapter 559 1995

Bill H _____ S 38 Original bill & history ✓ C

H. Committee on Bus & Labor			S. Committee on Bus & Ind		
Hearing Date(s)	1/26	C	Hearing Date(s)	1/11	C
	3/07	C	ex	1/19	C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Conference Comm
#1 3/22
3/23

1st Free Conference Comm
4/10 ish

2nd Free Conference Comm
#2 4/12 ish

1/18	FISCAL NOTE PRINTED		
1/18	HEARING		
1/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/21	2ND READING PASSED AS AMENDED	40	
1/23	3RD READING PASSED	41	
	TRANSMITTED TO HOUSE		
1/24	FIRST READING		
1/24	REFERRED TO STATE ADMINISTRATION		
2/06	HEARING		
2/15	COMMITTEE REPORT—BILL CONCURRED		
2/20	2ND READING CONCURRED	64	3
2/21	3RD READING CONCURRED	62	3
	RETURNED TO SENATE		
2/27	SIGNED BY PRESIDENT		
3/02	SIGNED BY SPEAKER		
3/02	FILED WITH SECRETARY OF STATE		
	CHAPTER NUMBER 69		
	EFFECTIVE DATE: 01/01/2001, CONTINGENT UPON VOTER APPROVAL		

SB 38 INTRODUCED BY BENEDICT

ESTABLISH THE JOB INVESTMENT ACT

BY REQUEST OF GOVERNOR

12/29	INTRODUCED		
12/29	FISCAL NOTE REQUESTED		
1/02	FIRST READING		
1/02	REFERRED TO BUSINESS & INDUSTRY		
1/09	FISCAL NOTE RECEIVED		
1/10	FISCAL NOTE PRINTED		
1/11	HEARING		
1/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/20	2ND READING PASSED	50	
1/21	3RD READING PASSED	45	
	TRANSMITTED TO HOUSE		
1/23	FIRST READING		
1/23	REFERRED TO BUSINESS & LABOR		
1/25	REVISED FISCAL NOTE PRINTED		
1/26	HEARING		
1/27	TABLED IN COMMITTEE		
3/07	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/09	2ND READING CONCURRED AS AMENDED	57	4
3/11	3RD READING CONCURRED	66	2
	RETURNED TO SENATE WITH AMENDMENTS		
3/17	2ND READING AMENDMENTS NOT CONCURRED	47	
3/18	CONFERENCE COMMITTEE APPOINTED		
3/22	HEARING		
3/22	CONFERENCE COMMITTEE REPORT NO. 1		
3/30	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	50	
3/31	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	
4/08	CONFERENCE COMMITTEE DISSOLVED		
	HOUSE		
3/21	CONFERENCE COMMITTEE APPOINTED		
3/23	CONFERENCE COMMITTEE REPORT NO .1		
4/06	MOTION FAILED TO ADOPT CONFERENCE COMMITTEE REPORT NO. 1 ON 2ND READING	17	8
4/08	CONFERENCE COMMITTEE DISSOLVED		

	SENATE		
4/08	FREE CONFERENCE COMMITTEE APPOINTED		
4/10	HEARING		
4/10	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/11	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	0
	HOUSE		
4/08	FREE CONFERENCE COMMITTEE APPOINTED		
4/10	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/11	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	85	14
4/11	TAKEN FROM 3RD READING AND REFERRED TO FREE CONFERENCE COMMITTEE		
	SENATE		
4/11	NEW FREE CONFERENCE COMMITTEE APPOINTED		
4/12	HEARING		
4/12	FREE CONFERENCE COMMITTEE REPORT NO. 2		
4/13	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED	50	0
4/13	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED	50	0
	HOUSE		
4/12	NEW FREE CONFERENCE COMMITTEE APPOINTED		
4/12	FREE CONFERENCE COMMITTEE REPORT NO. 2		
4/13	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED	76	19
4/13	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED	79	20
4/18	SIGNED BY PRESIDENT		
4/18	SIGNED BY SPEAKER		
4/18	TRANSMITTED TO GOVERNOR		
4/26	SIGNED BY GOVERNOR CHAPTER NUMBER 559 EFFECTIVE DATE: 04/26/95		

SB 39 INTRODUCED BY HALLIGAN, ET AL.

PROVIDE TAX CREDIT TO FEDERAL RETIREES WHO FAILED TO TIMELY FILE FOR REFUNDS FOR TAXES PAID ON FEDERAL PENSION INCOME FOR TAX YEARS 1983 THROUGH 1987

12/29	INTRODUCED		
12/29	FISCAL NOTE REQUESTED		
1/02	FIRST READING		
1/02	REFERRED TO TAXATION		
1/07	FISCAL NOTE RECEIVED		
1/10	FISCAL NOTE PRINTED		
1/24	HEARING		
3/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/25	2ND READING PASSED AS AMENDED	32	13
3/25	SEGREGATED FROM COMMITTEE OF THE WHOLE REPORT	23	20
3/27	2ND READING PASSED	37	11
3/28	3RD READING PASSED	39	10
	TRANSMITTED TO HOUSE		
3/29	FIRST READING		
3/29	REFERRED TO TAXATION		
4/04	HEARING		
4/06	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/07	2ND READING CONCURRED	89	11

SENATE BUSINESS & INDUSTRY

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE		REREFERRI
SB0019	GAGE, DELWYN		ALLOW FOR SIMULCASTING OF GREYHOUND RACES			
	1/02	2/02		DO PASS	2/06 VOTE: 7-1	
SB0022	GAGE, DELWYN		PROVIDE LIMITED EXEMPTION FOR LICENSED JOCKEY FROM WORKERS' COMPENSA			
	1/02	2/02		PASS AS AMENDED	2/03 VOTE: 7-2	
SB0038	BENEDICT, STEVE		JOB INVESTMENT ACT			
	1/02	1/11	1/12, 1/17,	PASS AS AMENDED	1/19 VOTE: UNAN	
SB0067	LYNCH, J. D.		EXEMPT INS LICENSEE OVER 70 & 35 YRS GOOD STANDING FROM CONTIN ED CI			
	1/07	1/17		DO PASS	1/18 VOTE: 5-4	
SB0095	BISHOP, AL		REVISE HEARING AID TRAINEE LICENSURE			
	1/11				VOTE:	PUBLIC HEA
SB0100	BECK, TOM		AUTHORIZE LOCAL GOV LOANS FOR CERTAIN ECONOMIC DEV PROJECTS; AKA MIC			
	1/11	1/13		DO PASS	1/13 VOTE: UNAN	
SB0119	HERTEL, JOHN		BILL WITHDRAWN			
	1/13				VOTE:	
SB0164	GAGE, DELWYN		REMOVE STATE IMPEDIMENTS TO MUNICIPAL LICENSURE OF BUSINESS			
	1/17	1/25		TABLED ON 01/27	VOTE: 8-1	
SB0170	KEATING, TOM		ELIMINATE CERTAIN IN-STATE BIDDING PREFERENCES			
	1/17	2/01		DO PASS	2/03 VOTE: 6-3	
SB0177	FOSTER, MIKE		REQUIRE CERTAIN INSURERS, CORPS & HMOS TO DISCLOSE MEANING OF CERTAI			
	1/17	1/27		PASS AS AMENDED	2/08 VOTE: UNAN	

SENATE BILL NO. 38

INTRODUCED BY BENEDICT

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE JOB INVESTMENT ACT; AUTHORIZING THE DEPARTMENT OF COMMERCE TO ADMINISTER $8 MILLION OF THE PERMANENT COAL TAX TRUST FUND FOR LOANS TO BUSINESSES TO CREATE OR RETAIN JOBS; AMENDING SECTION 17-6-308, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4] gives the department of commerce authority to adopt administrative rules for the administration of the Job Investment Act. The act is intended to provide funding for loans to Montana businesses as part of a financing package to permit business expansion and job creation. The act is intended to expand the current capabilities of the economic development portion of the federal community development block grant program, which is highly effective but satisfies only a small portion of the existing need.

The job investment loans are intended to provide a portion of the financing necessary to permit business expansion and job creation and may be used only in conjunction with equity and other debt financing in cases in which other funding would not satisfy the total need and would not be available without additional financing under the Job Investment Act.

The community development block grant program has also been used to leverage other forms of public and private financing to support job expansion and retention. The approximately $2.6 million of community development block grant program economic development funding for the current fiscal year amounts to funding for less than one-half of the funding requests received during the first 4 months of the current fiscal year. If annualized, this year's funding experience would result in requests in excess of $10 million. There is opportunity for significant economic impact from an expansion of the state's investment in projects that create jobs which would not be fully funded from existing sources.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 8] may be cited as the "Jo Investment Act".

NEW SECTION. **Section 2. Legislative findings -- purpose.** (1) The legislature finds and declare that:

(a) it is the policy of the state to foster and encourage economic development within the state i order to promote the general welfare of the people;

(b) access to capital for the creation, expansion, and retention of qualified businesses, particular for working capital, is a serious problem that inhibits the growth of businesses, jobs, and tax revenue; an

(c) the public sector and the private sector are constrained from satisfying the financial needs o state businesses because of federal and state financial regulatory rules and practices.

(2) The purpose of [sections 1 through 8] is to create a job investment program that encourage and assists in the creation, development, and financing of businesses whose primary obstacle to expansio or retention of employment is access to the appropriate type and amount of financing. This financial nee is particularly acute in areas of the state that are economically depressed, and emphasis should be give to projects that will be located in these areas if the projects meet the requirements of [sections 1 throug 8] and rules adopted pursuant to [section 4] and meet acceptable levels of financial risk as determined b the loan review committee.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 8], unless the conte requires otherwise, the following definitions apply:

(1) "Department" means the department of commerce provided for in 2-15-1801.

(2) "Loan review committee" means the committee that is established by the department t consider economic development loan applications for funding by the federal community development bloc grant program and that is responsible for reviewing and approving or denying job investment loans subjec to [sections 1 through 8] and rules implementing [sections 1 through 8].

(3) "Qualified business" means a business enterprise that either is or will be located in the stat and that produces goods or provides services that will, as a result of receiving a job investment loan, creat jobs for Montana workers.

NEW SECTION. **Section 4. Rulemaking authority.** The department shall adopt rules to implement the provisions of [sections 1 through 8], including rules:

(1) determining the amount of interest and the method of computation and payment of interest charged to recipients of job investment loans and specifying amortization schedules and other terms and conditions for job investment loans as necessary. The rate of interest charged on a loan may not be less than the prevailing market rate.

(2) establishing criteria for determining nonperformance and declaring default for a job investment loan;

(3) specifying security and collateral requirements that must be met as a condition of receiving a job investment loan;

(4) encouraging financial institutions to participate to the greatest extent possible in the financing of job investment projects;

(5) requiring at least 50% of project funding to come from equity or debt sources other than a job investment loan; and

(6) providing for an application process and a loan review process.

NEW SECTION. **Section 5. Job investment administrative account.** There is a job investment administrative account in the state special revenue fund. The department shall deposit all loan origination fees, all service charges, and up to 2% of interest payments on job investment loans into the account. Money in the account must be used to pay the costs of administering [sections 1 through 8], including personnel costs, operating costs, and administrative costs.

NEW SECTION. **Section 6. Loan review committee -- conflict of interest -- servicing of loans.** (1) The department shall establish a loan review committee to administer [sections 1 through 8]. The committee shall accept and review loan applications pursuant to rules adopted by the department. The committee shall approve or disapprove loans. A loan may not exceed $500,000.

(2) A member of the department or the loan review committee who has a financial interest in a business that submits a job investment loan application shall disclose the interest and abstain from any involvement in the application, due diligence, and approval processes.

(3) The department may contract for the servicing of loans.

NEW SECTION. **Section 7. Legislative oversight.** The department shall report to the revenue oversight committee annually on the performance of the job investment program. The report to the committee must include:

(1) a summary of all loans made during the year;

(2) an analysis of job creation goals and performance;

(3) a summary of loan terms and conditions;

(4) a summary of funds leveraged with job investment loans; and

(5) an analysis of the job investment portfolio performance including calculations for returns on investments.

NEW SECTION. **Section 8. Grants, gifts, and donations.** The department may accept grants, gifts, and donations for purposes of [sections 1 through 8]. The department may expend the funds pursuant to laws and conditions governing the funds.

Section 9. Section 17-6-308, MCA, is amended to read:

"**17-6-308. Authorized investments.** (1) Except as provided in subsections (2) ~~and (3)~~ through (4) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions ~~as~~ determined by the board ~~determines~~ and must be repaid from ~~revenues of the board~~ revenue realized from the exercise of ~~its~~ the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the ~~revenues~~ revenue to the bonds and notes.

(3) The board shall allow the Montana board of science and technology development, provided for in 2-15-1818, to administer $15.5 million of the permanent coal tax trust fund for seed capital project loans and $8.1 million of the permanent coal tax trust fund for research and development project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1997, for seed capital project loans and beyond June 30, 1995, for research and development project loans. Until

the Montana board of science and technology development makes a loan pursuant to the provisions of Title 90, chapter 3, the funds under its administration must be invested by the board ~~of investments~~ pursuant to the provisions of 17-6-201.

(4) The board shall allow the department of commerce to administer $8 million of the permanent coal tax trust fund for job investment loans pursuant to [sections 1 through 8]. As loans are repaid, the department of commerce may reinvest the principal in new loans. Until a loan is made, the board shall invest the funds pursuant to 17-6-201.

~~(4)~~(5) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations."

NEW SECTION. **Section 10. Codification instruction.** [Sections 1 through 8] are intended to be codified as an integral part of Title 17, chapter 6, and the provisions of Title 17, chapter 6, apply to [sections 1 through 8].

NEW SECTION. **Section 11. Effective date.** [This act] is effective July 1, 1995.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0038, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act establishing the Job Investment Act by authorizing the Department of Commerce to administer $8 million of the permanent coal tax trust fund for loans to businesses to create or retain jobs.

ASSUMPTIONS:
1. Job Investment Act funds are loaned from the Coal Tax Trust account in amounts averaging $300,000 per month, beginning September 1995.
2. Job Investment Act funds are lent at an average rate of 10%, and amortized over a 10 year period.
4. Assume loan repayments (principal and interest) begin 2 months after funds are disbursed.
5. Assume current Coal Tax Trust opportunity cost earnings at 8% return on investment continue over next biennium.
6. Per SB0038 2% of loan interest payments will be deposited in Job Investment Act state special revenue account (SSR) to be used for costs to administer the program.
7. Principal and 98% of loan interest payments will be deposited into Coal Tax Trust account upon receipt.
8. FY96 operating costs of $18,000 are for contracted services related to servicing of that years loans. FY97 operating costs of $80,000 are for contracted services for loan servicing and administration.

FISCAL IMPACT:

Expenditures:

Department of Commerce:	FY96 Difference	FY97 Difference
FTE	0	0
Personal Services	0	0
Operating Expenses	18,000	80,000
Equipment	0	0
Total	18,000	80,000
Funding:		
Job Investment SSR (02)	18,000	80,000

Revenues:

Department of Commerce:	FY96 Difference	FY97 Difference
Job Invest Interest (02)	1,800	8,000
Coal Tax Job Invest Interest	87,200	393,000
Coal Tax Opportunity Cost	(110,000)	(396,000)
Total	(21,000)	5,000

Net Impact:

	FY96 Difference	FY97 Difference
Job Investment SSR (02)	(16,200)	(72,000)
School Equalization (02)	3,420	450
General fund (01)	(19,380)	(2,550)
Total	(39,000)	(75,000)

David Lewis 1-7-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Steve R Benedict
STEVE BENEDICT, PRIMARY SPONSOR DATE

Fiscal Note for SB0038, as introduced

SB 38

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
The business expansion and job creating aspects of this proposal, while difficult to quantify, are beneficial to any locality in which businesses are expanded and jobs are created. In addition, persons previously unemployed would now would now be contributing to the income tax and property tax bases.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
It is estimated that over $1,700,000 in Job Investment Act proceeds would be available for loans in FY98.

TECHNICAL NOTES:
It was intended that the revenue generated for the new SSR account (Section 5) would be sufficient to offset the administrative costs of the Job Investment Act. Some source of revenue, such as amending Section 5, would have to be implemented to cover the $88,000 negative biennium amount since no other funds are available. Increases in the SSR account causes an equal decrease to the general fund.

DEDICATION OF REVENUE:

a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

No. The Job Investment Action establishes a SSR which would be funded by a portion of interest payment proceeds from loan repayments. The proposed legislation would make loans to assist in the expansion of Montana businesses. The portion of interest payment proceeds dedicated to the SSR which this proposed legislation creates is funded entirely by those businesses receiving loan proceeds. The bill dedicates a portion of the interest revenues received to fund the administration of the program.

b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

By placing a portion of the proceeds of the proposed legislation into a SSR, the public, Montana businesses, and the legislature is assured that the program is enacted and working as intended.

c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? __X__ Yes ____ No (if no, explain)

d) Does the need for this SSR provision still exist? __X__ Yes ____ No (Explain)

The proposed bill creates a SSR which is necessary to effectively and efficiently administer the Job Investment Act.

e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

No. The dedicated revenue portion of this bill does not diminish the legislature's ability to scrutinize budgets, control expenditures, or establish priorities.

f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)

Yes, provided the Legislature continues to mandate economic development and job creation efforts within Montana.

g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

The dedicated revenue provision, which is required in this proposed legislation, would provide accounting efficiencies within the Department of Commerce. It would allow for the quick and accurate analysis of how effective and efficient the Job Investment Act is operating. Establishment of a SSR would allow one to quickly determine if the Job Investment Act is accomplishing it's mission as intended.

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **SEN. STEVE BENEDICT, VICE Chairman,** on January 11, 1995, at 8:00 a.m.

ROLL CALL

Members Present:
Sen. Steve Benedict, Vice Chairman (R)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Terry Klampe (D)

Members Excused: Sen. John Hertel, Chairman (R) and Sen. Bill Wilson (D)

Members Absent: N/A

Staff Present: Bart Campbell, Legislative Council
Lynette Lavin, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 11, SB 38
Executive Action: N/A

HEARING ON SB 11

Opening Statement by Sponsor:

SEN. TERRY KLAMPE, SD 31, Florence, presented SB 11, which is an act revising the law regarding the practice of veterinary medicine. There are several changes to improve the existing law, exemption language, definitions, and general cleanup. The bill makes about six changes and a few amendments to check through.

The first change would be exemption language. This exempts the licensure of the employees of the Montana Diagnostic Lab. These people are veterinarians and in fact have more degrees in veterinary medicine than the average veterinarian. They work at the Montana Diagnostic Lab and they are a back-up for veterinarians, when a veterinarian sees a disease he can't deal

Bob Sager, President, Montana Veterinary Medical Association, is here to support SB 11. The association has worked extremely hard on this bill with input from many areas and the veterinarians in the association which represents over 300 members.

Jack Reeves, Veterinarian, and former member of this committee, is here in support of SB 11. A lot of work has gone into this bill and he would urge the support of the committee for this bill.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

SEN. MIKE SPRAGUE asked **SEN. KLAMPE** if this bill would hinder people in rural areas because of the unavailability of the proper individuals. **SEN. KLAMPE** stated the bill does not change in any way the availability of performance of services. The only addition is support personnel to help the veterinarian.

SEN. CASEY EMERSON commented, look at page 2, line 22, which covers the above.

SEN. GARY FORRESTER questioned **SEN. KLAMPE** if this bill is going to allow a greater participation of non-licensed personnel and is the purpose more about financial gain. **SEN. KLAMPE** stated "no".

Closing by Sponsor:

SEN. KLAMPE stated this bill was not to enable veterinarians to make more money. This bill is to help the public, clean up language and make things more efficient in the licensing of some veterinarians. SB 11 will possibly lower costs to the public. He encouraged a favorable recommendation by the Committee.

VICE CHAIRMAN BENEDICT RELINQUISHED THE CHAIR TO COMMITTEE MEMBER SEN. MIKE SPRAGUE IN ORDER TO PRESENT SB 38

HEARING ON SB 38

Opening Statement by Sponsor:

SEN. STEVE BENEDICT, SD 30, Hamilton, presented SB 38, which is called the Job Investment Act and is at the request of **Governor Racicot.** This bill gives the Department of Commerce investment authority over $8 million in Coal Tax Trust money. The department will create a revolving loan fund at the state level

to complement the activities of private lenders. This bill is not intended to compete with financial lending institutions, but rather to make available additional capital resources that will complete a financial package. Several points are important in SB 38. There is a 50% cap on state participation and a $500,000 cap on the size of the loan.

Proponents' Testimony:

Linda Reed, Economic Development Advisor, representing the Governor's Office, read her written testimony. **EXHIBIT 4.** She encourages the committees favorable consideration, on behalf of the Governor and the Montanans who will enjoy the opportunities as a result of these new jobs.

Tom Hopgood, Montana Independent Bankers Association, welcomes this bill. The public sector and the private sector are constrained from satisfying the financial needs of state businesses because of federal and state financial regulatory rules and practices. On behalf of the community banks in the state of Montana, they are directly affected by the economic and business climate existing in Montana. They have been espousing the purposes stated in this act for years and it is with a great deal of relief that the Montana Independent Bankers Association welcomes this bill. This bill would insure the participation of the private lending industry in the economic development of this state. They support SB 38 with the amendments **SEN. BENEDICT** has provided. They strongly urge the committees favorable endorsement of this bill.

John Cadby, Montana Bankers Association, standing in support of SB 38. This association tries to represent all banks, from the smallest to the largest banks. These are relatively high-risk loans and the association wants to help make the program work as well as possible and they feel the state needs the expertise and experience of the local commercial banker to participate in these loans.

Larry Jochim, President, Flathead Bank of Bigfork, and current President of the Montana Bankers Association. They do support the amendment that will include financial institutions as a part of the debt package and they encourage the committees support of the amendment. These loans, again are high risk, and they would ask the committee to consider an amendment added to the bill "a loss reserve requirement". Their recommendation is it would include an accrual of 1% per year to a maximum accrual of 3% of the outstanding loans. We think this program should be properly funded with a loan/loss reserve and do encourage the committees support for passage of SB 38.

Jim Bennett, Chairman of the Board, First Citizens Bank in Billings, also encourages a "loan/loss reserve" for this project. He supports the committees passage of the bill.

Fred Flanders, President, Valley Bank of Helena, and former Banking Commissioner for the State of Montana, spoke in support of SB 38. This will provide economic opportunity for our community and the State of Montana and encourages the support of the committee.

David Owen, Montana Chamber of Commerce, stated this is a good bill making good fiscal sense. He urges the committees support.

Carl Schweitzer, Montana Contractors Association, stated they all support this bill. They are excited about the idea of using Montana money, investing it in Montana to create jobs, instead of investing our money in other locations around this nation.

Larry Gianchetta, Dean of the School of Business, University of Montana, maintains our students graduating from Montana schools are leaving our state for business opportunities elsewhere. These students may stay if opportunities exist in Montana. He is a very strong supporter of SB 38.

Ron Klaphake, Chief Executive Officer, Missoula Area Economic Development Corporation and serving as President, Montana Economic Developers Association commented in the business world there are risks and also the financial institutions are limited in what can be done. Our state needs more than what the banks are able to loan. We need the coal tax money in our communities, matching the financial institutions, and they wholeheartedly recommend a do pass.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

SEN. CASEY EMERSON asked **Ron Klaphake** if most of this money will be used on the high risk area. **Mr. Klaphake** stated it will be used in the working capital arena, where there isn't as much in assets for security purposes to guaranty the loans, which is what the banks need.

SEN. GARY FORRESTER asked **SEN. BENEDICT** if there will be a fiscal note with this bill. **SEN. BENEDICT** stated he has one, but it wasn't prepared in time to get to the committee. The present fiscal note does need some changes. He will give the committee members a new fiscal note before executive action takes place. **SEN. FORRESTER** also asked how the money was going to be taken out of the permanent Coal Tax Trust fund and **SEN. BENEDICT** deferred the question to **Jon Noel, Director, Department of Commerce. Mr. Noel** answered this will be investment authority only over the Coal Tax Trust funds. The funds will remain in the Coal Tax Trust until such time as they are loaned. As the loans are repaid, the funds will revert back into the Coal Tax Trust funds. **SEN. FORRESTER** asked **Mr. Noel** if he has authority now to remove

money from the Coal Tax Trust fund. **Mr. Noel** stated this bill would give them the investment authority. **SEN. FORRESTER** asked if this will require a two-thirds vote and **Mr. Noel** stated "no" as it must be paid back and requires only a simple majority.

SEN. TERRY KLAMPE questioned **Larry Jochim** how serious is the problem of access to the capital. **Mr. Jochim** stated the banks are 50 to 50% loaned out and the only way to make money for the stockholders is to make loans, so this is what they want to do. **SEN. KLAMPE** asked **Mr. Jochim** why, if the risk is too high for the banks, why not too high for the government and **Mr. Jochim** stated if it is a bankable deal, the bank will be there. It is the combination of the bank and the Department of Commerce working together to fund business and create jobs.

SEN. KEN MILLER asked **Jon Noel** if the guidelines for qualifying would be similar to CDBG in the pay-back schedules, matching funds, percentages, etc. **Mr. Noel** stated this would be basically a carbon copy of the CDBG program (Community Development Block Grant Program).

{Tape: 1; Side: B; Approx. Counter: ; Comments: .}

SEN. MILLER on further questioning **Mr. Noel,** the program as far as Billings, Great Falls, and another one, all have their own CDBG program. **Mr. Noel** stated they will have equal access in Great Falls, Billings and the Indian reservations. Those are the three, currently, having their own CDBG funds. **SEN. MILLER** also asked **Mr. Noel** if he could give any figures on percent of CDBG program success over the last five year period. **Mr. Noel** said they do have those numbers. Over the life of the CDBG program there have been some failures; however, they were very early. Of the loans made in the last three years, none have failed. **SEN. MILLER** requested documentation of the program over the last five years and **Mr. Noel** stated he would deliver documentation of the life of the entire program this afternoon.

Bart Campbell, Staff Attorney for the Business & Industry Committee, asked a technical question on the amendment of **Jon Noel,** bottom of page 3, line 29, to clarify that 50% of the funding must come from sources other than a job investment loan and other than a loan from a financial institution. **Mr. Noel** said "no", what this intended to state was 50% must come from other than the Job Investment Act and must include participation by a financial institution. His intent here is to say the maximum portion the Job Investment Act can take is 50%. He also stated they have no intention of going that high.

SEN. KLAMPE questioned the sponsor, **SEN. BENEDICT**, on how they had arrived at the figure of $500,000 limit. **Jon Noel** answered for **SEN. BENEDICT**, the amount happens to be the maximum amount under the CDBG program and was copied from that program.

SEN. KLAMPE asked **Linda Reed** if some communities would not be

able to receive grants, because they weren't skilled at this process and would this program enable those types of communities to become more skilled at obtaining these opportunities. **Ms. Reed** stated, with the administration of this program at the state level, using their regional development officers, they will be able to help the communities understand and know the program exists They will provide the communities with assistance to actually complete the application. After a few loans have been given they will be able to proceed on their own.

SEN. MILLER also asked **Linda Reed** if the reason some communities receive more in grant money is they have professional grant writers and inquired if the same thing would occur with this program. **Ms. Reed** stated their intent is to work with local financial institutions and they will be marketing this program. Their function will be to alert everyone of the availability of this program. **SEN. MILLER** commented that simplifying the procedure of writing the grant would be a help. **Ms. Reed** said they understand and are not going to be bound by the restrictions of CDBG and HUD requirements for the application process.

SEN. MIKE SPRAGUE asked if Montana has any collateralization, and if they would be sharing the risk with the banks on a 50/50 loan process, and taking no collateral position in terms of default of the loan. **Ms. Reed** explained Montana would be taking a subordinate position to the bank. **SEN. SPRAGUE** commented we really have no asset position. **Ms. Reed** said that is correct.

Closing by Sponsor:

SEN. BENEDICT thanked everyone for a good hearing on SB 38. He expressed all these questions are questions that will be coming up in the process. There is wide spread support for this bill. It appears there is a great need for this type of lending approach, as it allows financial institutions to spread their risk, be more aggressive in getting more capital into the hands of solid Montana companies, and gaining more good paying jobs here in Montana.

He stated the Community Development Block Grant program is oversubscribed and just about out of money. This bill is needed to drive the economic development efforts being made in various areas of the state. We have all heard the old saying "it takes money to make money". There are jobs waiting to happen in Montana and this is an important piece of the puzzle. There are risks in everything we do in the State of Montana. The Department of Commerce has come up with an affective method to balance those risks. On behalf of the Governor, **SEN. BENEDICT** urged the committee to support this important piece of legislation.

VICE-CHAIRMAN BENEDICT REASSUMED THE CHAIR.

ADJOURNMENT

Adjournment: The meeting adjourned at 9:30 a.m.

SEN. STEVE BENEDICT, Vice Chairman

LYNETTE LAVIN, Secretary

SB/ll

ROLL CALL

SENATE COMMITTEE B & I DATE 1-11-95

NAME	PRESENT	ABSENT	EXCUSED
Sen. Hertel, Chairman			✓ ill
Sen. Benedict, Vice Chairman	✓		
Sen. Crismore	✓		
Sen. Emerson	✓		
Sen. Forrester	✓		
Sen. Klampe	✓		
Sen. Miller	✓		
Sen. Sprague	✓		
Sen. Wilson			✓ ill

Attach to each day's minutes

ROLLCALL.F08

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 1-11-95
BILL NO. SB 38
Presented by Linda Reed

Senate Bill 38
Job Investment Act
Testimony
January 11, 1995

Mr. Chairman and members of the Committee, I am Linda Reed and I represent the Governor's Office. My testimony this morning reflects both my opinions as the Senior Economic Development Advisor in the Governor's Office and my experiences as a bank president and commercial lender.

The Job Investment Act seeks administration of $8 million of the permanent coal tax trust fund for the purpose of establishing a revolving loan fund, proceeds of which will be made available to businesses which are planning to expand and create new jobs. Loans will be made in partnership with private lenders, as the Job Investment Act will provide no more than 50% of the total financing required.

The need for this fund was identified from our experience with the Community Development Block Grant Program which is administered in the Department of Commerce. The federal dollars made available for economic development under the CDBG program have been in the range of $2.5 million per year. Our experience shows that these funds are exhausted long before year end and in fact requests totaling 3 to 4 times the amount available are received. The Job Investment Act will augment these federal dollars.

In addition, the Job Investment Act is designed to overcome some of the limitations of the CDBG program. CDBG is a creation of the Department of Housing and Urban Development. As such, its original intent was to foster opportunities within the inner cities, specifically for those individuals whose skill level might only qualify them for low to moderate income jobs. We believe that all job creation is important and therefore there is no requirement that only low to moderate income jobs be created in order to qualify for the Job Investment Act funds.

HUD rules restrict the Department of Commerce from considering loans to businesses located in Billing, Great Falls, and the Indian Reservations. These communities qualify for their own CDBG funds; however, they are often spent on infrastructure projects rather than funding businesses. So restriction prohibits our participation in such projects as the ethanol facilities planned in Great Falls, as they lie inside the city limits.

By tradition, the CDBG funds have been disbursed as grants to local government entities who in turn lend the funds to local businesses. Loan repayments are paid back to the local government and are retained there to be re-loaned to that community's businesses. Some of our communities are very skilled at applying for CDBG funds and as a result concentrations are developing. The Job Investment Act will be administered at the State level, with loan payments

coming back to the State to be re-loaned. In this way we can insure that businesses within communities without mature economic development organizations have opportunities to access these funds.

This is not a subsidized program. Loans made will be at market rates or higher because it is our intent that this portfolio yield a sufficient return to match the earnings rate of the permanent coal tax trust and cover the costs loan servicing and loan reserve expense.

No additional staff within the Department of Commerce is contemplated. Loan servicing will be contracted with local banks or economic development corporations. Our projections include this expense. Loan monitoring will occur with our existing staff of Regional Development Officers who currently provide similar oversight of CDBG loans.

I believe the Job Investment Act will become an important tool to our private lenders as they work to find ways to accommodate the financing needs of existing and new customers. It will be an important tool for us, the State, to use to achieve our number one priority, job creation and business expansion.

On behalf of the Governor and the Montanans who will benefit from the job this program creates, I encourage your favorable consideration of the Job Investment Act. Thank you.

DATE January 11, 1995

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: Senate Bill 11 Senator Klamp
Senate Bill 38 Senator Benedict

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Minott E. Pruyn DVM	Board of Vet. Med	SB11	✓	
Ron Klaphake	MSLA EDC	SB38	✓	
Tom Hopgood	Mt. Indep. Bankers Assoc.	SB38	✓	
John Cadby	MT Bankers Assn	SB38	✓	
Tim Bennett	First Citizens Bk	SB38	✓	
Larry W. Jochim	Montana Bankers Assn	SB38	✓	
Fred J. Flanders	Valley Bank Helena	SB38	✓	
Bill Leary	MT Bankers Ass	SB38	✓	
Carl Schweitzer	MT Cont Assn	SB38	—	
Jack Rea Reeves?	Veterinarian	SB11	✓	
Bob Sager	MVMA	SB11	✓	
Stuart Doggett	MVMA	SB11	✓	
Larry Gianchetta	UM-Missoula	SB38	✓	
Jon Noel	Dept of Ag	"	✓	
David Owsin	MT Chamber	SB38	✓	
Linda Reed	Gov's Office	SB38	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on January 19, 1995, at 8:00 a.m.

ROLL CALL

Members Present:
Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Terry Klampe (D)

Members Excused: Sen. Bill Wilson (D)

Members Absent: N/A

Staff Present: Bart Campbell, Legislative Council
Lynette Lavin, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: None
Executive Action: SB 38 DO PASS AS AMENDED

EXECUTIVE ACTION ON SB 38

Motion: **SEN. STEVE BENEDICT MADE THE MOTION THAT THE AMENDMENTS REQUESTED BY SEN. BENEDICT BE ADOPTED.**

Discussion: **SEN. BENEDICT** stated that the amendments were prepared by the Department of Commerce when the bill was introduced. The bill required some clean up of issues raised by the banking industry.

SEN. CASEY EMERSON asked if the amendments were the same amendments passed before. **SEN. BENEDICT** replied that these were the same amendments. He explained that because the committee had not acted on SB 38 after the amendments were passed, the bill returns to its original form and the committee must start from scratch.

Vote: The motion to adopt the amendments **CARRIED UNANIMOUSLY.**

Motion: **SEN. KEN MILLER MADE THE MOTION THE AMENDMENTS BE REQUESTED BE ACCEPTED.**

Discussion: **SEN. BENEDICT** stated that he had requested additional time for **SENATORS SPRAGUE AND MILLER** to work on the amendments they felt were necessary. He commended them for coming up with amendments that everyone could agree on and expressed his support.

Vote: The motion to adopt the amendments **CARRIED UNANIMOUSLY.**

Motion: **SEN. BENEDICT MADE THE MOTION THAT SB 38 DO PASS AS AMENDED.**

Vote: The motion **SB 38 DO PASS AS AMENDED CARRIED UNANIMOUSLY.**

Discussion: **SEN. BENEDICT** stated that the Society of CPA's missed the deadline for introduction of bills. He believes the committee bill process is the safety valve in the process in case someone misses a deadline, the committee can help out.

Motion: **SEN. BENEDICT** made the motion **Bart Campbell** be allowed to draft two committee bills for the Society of CPA's.

Discussion: **SEN. FORRESTER** asked how this motion would fit in with leadership's attempt to limit bills. He expressed concern that this may go against leadership's wishes.

SEN. HERTEL stated that he will limit the bills, but he felt this was a fine idea. He fully supports the concept of committee bills.

SEN. BENEDICT said that the committee is independent of leadership and the committee bill is part of that independence.

SEN. BILL CRISMORE asked **SEN. BENEDICT** to explain the committee bill process. **SEN. BENEDICT** explained that the committee bill process is a process where the committee can introduce a bill on the committee's behalf. It can be because the committee sees a need that is not being met or because someone brings an issue to the committee after the bill draft request deadline.

SEN. HERTEL asked **SEN. BENEDICT** to explain the voting process for a committee bill. **SEN. BENEDICT** explained that it was his understanding that it requires ¾ of the committees' votes to get the bill passed. It ensures that the majority party can not run away with a partisan bill and call it a committee bill.

SEN. SPRAGUE stated that there are some Senators that are very conservative and have not used all of their bill requests.

SEN. KLAMPE stated that for the record he had no comment. The committee applauded.

Vote: The motion to draft two committee bills **CARRIED UNANIMOUSLY.**

ADJOURNMENT

Adjournment: The meeting adjourned at 8:15 a.m.

SEN. JOHN HERTEL, Chairman

LYNETTE LAVIN, Secretary

JH/ll

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL DATE 1-19-95

NAME	PRESENT	ABSENT	EXCUSED
STEVE BENEDICT, VICE CHAIRMAN	✓		
WILLIAM CRISMORE	✓		
CASEY EMERSON	✓		
GARY FORRESTER	✓		
TERRY KLAMPE	✓		
KEN MILLER	✓		
MIKE SPRAGUE	✓		
BILL WILSON			✓
JOHN HERTEL, CHAIRMAN	✓		

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CS-09

SENATE STANDING COMMITTEE REPORT

January 19, 1995

MR. PRESIDENT:
We, your committee on Business and Industry having had under consideration SB 38 (first reading copy -- white), respectfully report that SB 38 be amended as follows and as so amended do pass.

Signed: John R. Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Page 1, line 11.
Strike: "4"
Insert: "5"

2. Page 2, lines 1, 12, 17, 20, 26 (in two places).
Page 3, lines 2, 20, 24.
Page 4, line 12.
Page 5, lines 5, 12, 14.
Strike: "8"
Insert: "9"

3. Page 2, line 7.
Following: "people;"
Insert: "and"

4. Page 2, lines 9 through 11.
Following: "revenue" on line 9
Strike: remainder of line 9 through "practices" on line 11

5. Page 2, line 17.
Strike: "4"
Insert: "5"

6. Page 2, following line 29.
Insert: "NEW SECTION. **Section 4. Loan applicant endorsement.** Applicants for job investment loans must be endorsed by local government entities or local economic development corporations."
Renumber: subsequent sections

7. Page 3, lines 13 and 14.
Following: "requiring" on line 13
Strike: remainder of line 13 through "and" on line 14
Insert: "that the percentage of project funding that must come from sources other than a job investment loan be a minimum of 50% when a job investment loan does not exceed $100,000

PV Amd. Coord.
SA Sec. of Senate

and 67% for a maximum job investment loan of $500,000. Loan participation from sources other than a job investment loan must be in increasing increments of .0425% over the minimum 50% for every $1,000 of a job investment loan in excess of $100,000, and the funds from other sources must include a loan from a financial institution.

(6) establishing appropriate loan loss reserves; and"

Renumber: subsequent subsection

8. Page 3, line 19.
Strike: "2%"
Insert: "20%"

9. Page 3, line 30.
Strike: "may"
Insert: "shall"

-END-

Amendments to Senate Bill No. 38
First Reading Copy

Requested by Senator Benedict
For the Committee on Business and Industry

Prepared by Bart Campbell
January 12, 1995

1. Page 1, line 11.
Strike: "4"
Insert: "5"

2. Page 2, lines 1, 12, 17, 20, 26 (in two places).
Page 3, lines 2, 20, 24.
Page 4, line 12.
Page 5, lines 5, 12, 14.
Strike: "8"
Insert: "9"

3. Page 2, line 7.
Following: "people;"
Insert: "and"

4. Page 2, lines 9 through 11.
Following: "revenue" on line 9
Strike: remainder of line 9 through "practices" on line 11

5. Page 2, line 17.
Strike: "4"
Insert: "5"

6. Page 2, following line 29.
Insert: "NEW SECTION. **Section 4. Loan applicant endorsement.** Applicants for job investment loans must be endorsed by local government entities or local economic development corporations."
Renumber: subsequent sections

7. Page 3, line 13.
Strike: "equity or debt"
Following: "sources"
Insert: ","

8. Page 3, line 14.
Following: "loan"
Insert: ", which sources must include a loan from a financial institution"
Strike: "and"

9. Page 3, following line 14.
Insert: "(6) establishing appropriate loan loss reserves; and"
Renumber: subsequent subsection

10. Page 3, line 19.

Strike: "2%"
Insert: "20%"

11. Page 3, line 30.
Strike: "may"
Insert: "shall"

Amendments to Senate Bill No. 38
First Reading Copy

Requested by Senator Miller
For the Committee on Business and Industry

Prepared by Bart Campbell
January 18, 1995

1. Page 3, lines 13 and 14.
Strike: "requiring" on line 13 through "and;" on line 14
Insert: "requiring that the percentage of project funding that must come from sources other than a job investment loan be a minimum of 50% when a job investment loan does not exceed $100,000 and 67% for a maximum job investemnt loan of $500,000. Loan participation from sources other than a job investment loan must be in increasing increments of .0425% over the minimum 50% for every $1,000 of a job investment loan in excess of $100,000, and the funds from other sources must include a loan from a financial institution."

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE -----
-- REREFERRED ---- DATE READ

HB0599		3/17	3/20		PASS AS AMENDED	3/21	VOTE: 13-5	3/22
HB0602	KITZENBERG, SAM	3/17	3/21	INFRASTRUCTURE LOANS FOR JOB CREATION	PASS AS AMENDED	3/21	VOTE: 18-0	3/22
HJ0012	DEVANEY, CHARLES	1/20	1/26	INTERIM STUDY OF INTERSTATE BRANCH BANKING AND FEDERAL PUBLIC LAW 103-345	TABLED ON	1/27	VOTE: 18-0	
SB0016	AKLESTAD, GARY	1/10	1/17	ELIMINATE SPECIAL LEGISLATIVE REVIEW OF JTPA UNLESS FUNDED WITH JTPA FUNDS	CONCUR	1/17	VOTE: 18-0	1/17
SB0019	GAGE, DELWYN	2/15	3/03	ALLOW FOR SIMULCASTING OF GREYHOUND RACES	CONCUR	3/7	VOTE: 12-6	3/07
SB0021	HALLIGAN, MIKE	1/17	1/24	CLARIFY PERMISSIVE USE OF NATIONAL EMPLOYMENT CLASSIFICATIONS	CONCUR	1/24	VOTE: 17-1	1/25
SB0022	GAGE, DELWYN	2/15	3/03	PROVIDE LIMITED EXEMPTION FOR LICENSED JOCKEY FROM WORKERS' COMPENSATION	CONCUR	3/7	VOTE: 18-0	3/07
SB0033	KEATING, TOM	1/14	1/24	ELIMINATING THE $25 MINIMUM WORKERS' COMP OLD FUND LIABILITY TAX	CONCUR	1/24	VOTE: 18-0	1/25
SB0038	BENEDICT, STEVE	1/23	1/26	JOB INVESTMENT ACT	CONCUR AS AMENDED	3/7	VOTE: 15-3	3/07
SB0065	DOHERTY, STEVE	1/26	1/31	APPLICATION AND FEE REQUIRED FOR OUT-OF-STATE ATTORNEY COURT APPEARANCES	TABLED ON	1/31	VOTE: 18-0	
SB0067	LYNCH, J. D.	1/23	1/26	EXEMPT INS LICENSEE OVER 70 & 35 YRS GOOD STANDING FROM CONTIN ED CLASS	TABLED ON	1/27	VOTE: 16-2	
SB0080	KEATING, TOM	2/06	3/07	EXEMPT NEWS EDITORS, RADIO ANNOUNCERS, CERTAIN ENGINEERS FROM OVERTIME LAWS	CONCUR	3/7	VOTE: 13-5	3/07

SENATE BILL NO. 38

INTRODUCED BY BENEDICT

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE JOB INVESTMENT ACT; AUTHORIZING THE DEPARTMENT OF COMMERCE TO ADMINISTER $8 MILLION OF THE PERMANENT COAL TAX TRUST FUND FOR LOANS TO BUSINESSES TO CREATE OR RETAIN JOBS; AMENDING SECTION 17-6-308, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4 5] gives the department of commerce authority to adopt administrative rules for the administration of the Job Investment Act. The act is intended to provide funding for loans to Montana businesses as part of a financing package to permit business expansion and job creation. The act is intended to expand the current capabilities of the economic development portion of the federal community development block grant program, which is highly effective but satisfies only a small portion of the existing need.

The job investment loans are intended to provide a portion of the financing necessary to permit business expansion and job creation and may be used only in conjunction with equity and other debt financing in cases in which other funding would not satisfy the total need and would not be available without additional financing under the Job Investment Act.

The community development block grant program has also been used to leverage other forms of public and private financing to support job expansion and retention. The approximately $2.6 million of community development block grant program economic development funding for the current fiscal year amounts to funding for less than one-half of the funding requests received during the first 4 months of the current fiscal year. If annualized, this year's funding experience would result in requests in excess of $10 million. There is opportunity for significant economic impact from an expansion of the state's investment in projects that create jobs which would not be fully funded from existing sources.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through ~~8~~ 9] may be cited as the "Job Investment Act".

NEW SECTION. **Section 2. Legislative findings -- purpose.** (1) The legislature finds and declares that:

(a) it is the policy of the state to foster and encourage economic development within the state in order to promote the general welfare of the people; AND

(b) access to capital for the creation, expansion, and retention of qualified businesses, particularly for working capital, is a serious problem that inhibits the growth of businesses, jobs, and tax revenue~~; and~~

~~(c) the public sector and the private sector are constrained from satisfying the financial needs of state businesses because of federal and state financial regulatory rules and practices~~.

(2) The purpose of [sections 1 through ~~8~~ 9] is to create a job investment program that encourages and assists in the creation, development, and financing of businesses whose primary obstacle to expansion or retention of employment is access to the appropriate type and amount of financing. This financial need is particularly acute in areas of the state that are economically depressed, and emphasis should be given to projects that will be located in these areas if the projects meet the requirements of [sections 1 through ~~8~~ 9] and rules adopted pursuant to [section ~~4~~ 5] and meet acceptable levels of financial risk as determined by the loan review committee.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through ~~8~~ 9], unless the context requires otherwise, the following definitions apply:

(1) "Department" means the department of commerce provided for in 2-15-1801.

(2) "Loan review committee" means the committee that is established by the department to consider economic development loan applications for funding by the federal community development block grant program and that is responsible for reviewing and approving or denying job investment loans subject to [sections 1 through ~~8~~ 9] and rules implementing [sections 1 through ~~8~~ 9].

(3) "Qualified business" means a business enterprise that either is or will be located in the state and that produces goods or provides services that will, as a result of receiving a job investment loan, create jobs for Montana workers.

NEW SECTION. **SECTION 4. LOAN APPLICANT ENDORSEMENT.** APPLICANTS FOR JOB INVESTMENT LOANS MUST BE ENDORSED BY LOCAL GOVERNMENT ENTITIES OR LOCAL ECONOMIC DEVELOPMENT CORPORATIONS.

NEW SECTION. **Section 5. Rulemaking authority.** The department shall adopt rules to implement the provisions of [sections 1 through ~~8~~ 9], including rules:

(1) determining the amount of interest and the method of computation and payment of interest charged to recipients of job investment loans and specifying amortization schedules and other terms and conditions for job investment loans as necessary. The rate of interest charged on a loan may not be less than the prevailing market rate.

(2) establishing criteria for determining nonperformance and declaring default for a job investment loan;

(3) specifying security and collateral requirements that must be met as a condition of receiving a job investment loan;

(4) encouraging financial institutions to participate to the greatest extent possible in the financing of job investment projects;

(5) requiring ~~at least 50% of project funding to come from equity or debt sources other than a job investment loan; and~~ THAT THE PERCENTAGE OF PROJECT FUNDING THAT MUST COME FROM SOURCES OTHER THAN A JOB INVESTMENT LOAN BE A MINIMUM OF 50% WHEN A JOB INVESTMENT LOAN DOES NOT EXCEED $100,000 AND 67% FOR A MAXIMUM JOB INVESTMENT LOAN OF $500,000. LOAN PARTICIPATION FROM SOURCES OTHER THAN A JOB INVESTMENT LOAN MUST BE IN INCREASING INCREMENTS OF .0425% OVER THE MINIMUM 50% FOR EVERY $1,000 OF A JOB INVESTMENT LOAN IN EXCESS OF $100,000, AND THE FUNDS FROM OTHER SOURCES MUST INCLUDE A LOAN FROM A FINANCIAL INSTITUTION.

(6) ESTABLISHING APPROPRIATE LOAN LOSS RESERVES; AND

~~(6)~~(7) providing for an application process and a loan review process.

NEW SECTION. **Section 6. Job investment administrative account.** There is a job investment administrative account in the state special revenue fund. The department shall deposit all loan origination fees, all service charges, and up to ~~2%~~ 20% of interest payments on job investment loans into the account.

Money in the account must be used to pay the costs of administering [sections 1 through ~~8~~ 9], including personnel costs, operating costs, and administrative costs.

NEW SECTION. **Section 7. Loan review committee -- conflict of interest -- servicing of loans.** (1) The department shall establish a loan review committee to administer [sections 1 through ~~8~~ 9]. The committee shall accept and review loan applications pursuant to rules adopted by the department. The committee shall approve or disapprove loans. A loan may not exceed $500,000.

(2) A member of the department or the loan review committee who has a financial interest in a business that submits a job investment loan application shall disclose the interest and abstain from any involvement in the application, due diligence, and approval processes.

(3) The department ~~may~~ SHALL contract for the servicing of loans.

NEW SECTION. **Section 8. Legislative oversight.** The department shall report to the revenue oversight committee annually on the performance of the job investment program. The report to the committee must include:

(1) a summary of all loans made during the year;

(2) an analysis of job creation goals and performance;

(3) a summary of loan terms and conditions;

(4) a summary of funds leveraged with job investment loans; and

(5) an analysis of the job investment portfolio performance including calculations for returns on investments.

NEW SECTION. **Section 9. Grants, gifts, and donations.** The department may accept grants, gifts, and donations for purposes of [sections 1 through ~~8~~ 9]. The department may expend the funds pursuant to laws and conditions governing the funds.

Section 10. Section 17-6-308, MCA, is amended to read:

"**17-6-308. Authorized investments.** (1) Except as provided in subsections (2) ~~and (3)~~ through (4) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions ~~as~~ determined by the board ~~determines~~ and must be repaid from ~~revenues of the board~~ revenue realized from the exercise of ~~its~~ the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the ~~revenues~~ revenue to the bonds and notes.

(3) The board shall allow the Montana board of science and technology development, provided for in 2-15-1818, to administer $15.5 million of the permanent coal tax trust fund for seed capital project loans and $8.1 million of the permanent coal tax trust fund for research and development project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1997, for seed capital project loans and beyond June 30, 1995, for research and development project loans. Until the Montana board of science and technology development makes a loan pursuant to the provisions of Title 90, chapter 3, the funds under its administration must be invested by the board ~~of investments~~ pursuant to the provisions of 17-6-201.

(4) The board shall allow the department of commerce to administer $8 million of the permanent coal tax trust fund for job investment loans pursuant to [sections 1 through ~~8~~ 9]. As loans are repaid, the department of commerce may reinvest the principal in new loans. Until a loan is made, the board shall invest the funds pursuant to 17-6-201.

~~(4)~~(5) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations."

NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through ~~8~~ 9] are intended to be codified as an integral part of Title 17, chapter 6, and the provisions of Title 17, chapter 6, apply to [sections 1 through ~~8~~ 9].

NEW SECTION. **Section 12. Effective date.** [This act] is effective July 1, 1995.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0038, third reading

DESCRIPTION OF PROPOSED LEGISLATION:
An act establishing the Job Investment Act by authorizing the Department of Commerce to administer $8 million of the permanent coal tax trust fund for loans to businesses to create or retain jobs.

ASSUMPTIONS:
1. It is assumed that Job Investment Act funds will be loaned from the Coal Tax Trust account in amounts averaging $300,000 per month, beginning September 1995.
2. Job Investment Act funds will be lent at an average rate of 10%, and amortized over a 10 year period.
4. Assume loan repayments (principal and interest) begin 2 months after funds are disbursed.
5. Assume that current Coal Tax Trust opportunity cost earnings, at 8% return on investment, continue over the next biennium.
6. Twenty percent of loan interest payments will be deposited in Job Investment Act state special revenue account (SSR) to be used for costs to administer the program.
7. Principal and 80% of loan interest payments will be deposited into Coal Tax Trust account upon receipt.
8. FY96 operating costs of $18,000 are for contracted services related to servicing of that year's loans. FY97 operating costs of $80,000 are for contracted services for loan servicing and administration.

FISCAL IMPACT:

Expenditures:

Department of Commerce:	FY96 Difference	FY97 Difference
FTE	0	0
Personal Services	0	0
Operating Expenses	18,000	80,000
Equipment	0	0
Total	18,000	80,000

Funding:

Job Investment SSR (02)	18,000	80,000

Revenues:

Department of Commerce:	FY96 Difference	FY97 Difference
Job Invest Interest (02)	18,000	80,000
Coal Tax Job Invest Interest	71,000	321,000
Coal Tax Opportunity Cost	(110,000)	(396,000)
Total	(21,000)	5,000

Net Impact:

	FY96 Difference	FY97 Difference
Job Investment SSR (02)	0	0
School Equalization (02)	(5,850)	(11,250)
General fund (01)	(33,150)	(63,750)
Total	(39,000)	(75,000)

Dave Lewis 1-25-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Steve Benedict

STEVE BEBEDICT, PRIMARY SPONSOR DATE

Fiscal Note for SB0038, third reading

SB 38-#2

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
The business expansion and job creating aspects of this proposal, while difficult to quantify, are beneficial to any locality in which businesses are expanded and jobs are created. In addition, persons previously unemployed would now would now be contributing t the income tax and property tax bases.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
It is estimated that over $1,700,000 in Job Investment Act proceeds would be available fo loans in FY98.

TECHNICAL NOTES:
It was intended that the revenue generated for the new SSR account (Section 5) would be sufficient to offset the administrative costs of the Job Investment Act. Some source of revenue, such as amending Section 5, would have to be implemented to cover the $88,000 negative biennium amount since no other funds are available. Increases in the SSR accoun causes an equal decrease to the general fund.

DEDICATION OF REVENUE:

a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

   No. The Job Investment Action establishes a SSR which would be funded by a portion of interest payment proceeds from loan repayments. The proposed legislation would make loans to assist in the expansion of Montana businesses. The portion of interest payment proceeds dedicated to the SSR which this proposed legislation creates is funded entirely by those businesses receiving loan proceeds. The bill dedicates a portion of the interest revenues received to fund the administration of the program.

b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

   By placing a portion of the proceeds of the proposed legislation into a SSR, the public, Montana businesses, and the legislature is assured that the program is enacted and working as intended.

c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? __X__ Yes ____ No (if no, explain)

d) Does the need for this SSR provision still exist? __X__ Yes ____ No (Explain)

   The proposed bill creates a SSR which is necessary to effectively and efficiently administer the Job Investment Act.

e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

   No. The dedicated revenue portion of this bill does not diminish the legislature's ability to scrutinize budgets, control expenditures, or establish priorities.

(continued)

f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)

Yes, provided the Legislature continues to mandate economic development and job creation efforts within Montana.

g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

The dedicated revenue provision, which is required in this proposed legislation, would provide accounting efficiencies within the Department of Commerce. It would allow for the quick and accurate analysis of how effective and efficient the Job Investment Act is operating. Establishment of a SSR would allow one to quickly determine if the Job Investment Act is accomplishing it's mission as intended.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE T. SIMON**, on January 26, 1995, at 8:00 AM.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. Alvin A. Ellis, Jr. (R)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 38, HJR 12, SB 67, HB 286, HB 310
Executive Action: HB 310, HB 257, HJR 12, HB 276

HEARING ON SB 38

Opening Statement by Sponsor:

SEN. STEVE BENEDICT, SD 30, Ravalli County said this bill was the job investment act which was being presented at the request of the Governor. The bill gives the Department of Commerce

investment authority over $8 million in coal tax trust money. The department will create a revolving loan fund at the state level to complement the activities of private lenders. There have been several meetings with financial lenders to work out the details for this bill. It is important to note this bill is in no way intended to compete with financial institutions. But, rather to help make additional capital resources available to complete a financial package.

Proponents' Testimony:

Linda Reed, Governor's Office said she believed the Job Investment Act will become an important tool to the private lenders as they work to find ways to fulfill the financing needs of existing and new customers. It will be an important tool for the state to achieve the number one priority, job creation and business exploration. **EXHIBIT 1**

Riley Johnson, Small Business of Montana supported this bill.

Fred Flanders, President, Valley Bank supported this bill.

Tom Hopgood, Montana Independent Bankers Association said he supported this bill.

Ron Klaphake, President, Missoula Area Economic Development Corporation/Montana Economic Developers Association said he supported this bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. DON LARSON questioned the treasure state endowment program. **John Noel, Director, Department of Commerce** said this is specifically geared to primarily water and sewer infrastructure programs. This program looks more like the community development block grant economic development portion. That program makes grants to the cities and counties to make loans to businesses. They do not have the requirement that the jobs are created for low or moderate income levels.

REP. NORM MILLS asked for clarification regarding the loans which would be handled directly by this new entity. **Mr. Noel** said there is no new organization in the department. This would be handled by the same people who handled the community development block grant. It will direct loans to businesses but does require the endorsement of a local government or economic entity and participation by a bank.

REP. VICKI COCCHIARELLA questioned the $2 million requests and who would take advantage. **Mr. Noel** said the loans he had were

for an industrial park in Baker; $200,000 firm in Havre; a pool manufacturer in Missoula. These are the kinds of projects that this will finance on soft assets.

REP. ROD MARSHALL questioned the failure of a business. **Mr. Noel** said depending on the particular deal and the type of security, the state would be the lowest person from the lenders' standpoint and would be ahead of any equity interest. There will be a security interest in everything the bank does not have a first position on.

REP. DAVID EWER said banks do not finance soft costs because there is a lot more risk. **Mr. Noel** said the banks will not finance soft assets but it depends upon the company, the length of time they have been in business, track record, etc. **REP. EWER** said the bill says the loan must be in conjunction with other sources and asked how many losses they anticipate from this program. **Mr. Noel** said they did not anticipate they would ever be in a parody position. He mentioned they would always be in a lean position or subordinate position. This is the glue that puts the deal together. At some point the collateral has the most risk. As far as losses go, in the economic development portion of the CDBG program, from its inception, it has a 13% failure rate. Since 1991 there have been zero failures and not one company that is delinquent in payments. Since 1992 the CDBG program has started and a loan lost reserve was built up to 3%.

REP. CHARLES DEVANEY said the bank in this type of program will probably make their contribution on the basis of their 7A guaranteed loans.

REP. DON LARSON asked what the balance of the coal tax trust fund is to date. **Mr. Noel** said it was in the neighborhood of $500 million.

REP. JON ELLINGSON said 20% of the interest payments may be used for administrative costs. **Mr. Noel** said the law also states the department shall contract for the administration of these loans. Banks, local economic development organizations and others. These are funds which will reimburse these loans. $160,000 will be adequate.

CHAIRMAN BRUCE SIMON asked if the loan review committee was going to be made up of individuals within the department. **Mr. Noel** said the same people who constitute the loan committee for the CDBG program will be the committee. **CHAIRMAN SIMON** said section 4 says the investment loans must be endorsed by a local government entity or local development corporation. **Mr. Noel** said the reason the wording was put into the bill was because they want to do projects that the community is in favor of. It eliminates any concern with respect to political favoritism.

CHAIRMAN SIMON asked if any kind of commitment was needed. **Mr. Noel** said the local development organizations are typically involved in these financing deals. They don't exist everywhere.

CHAIRMAN SIMON asked under what circumstances would the department envision that a project might be proposed and brought to the department where some local government said they did not want it. **Mr. Noel** said that if the local government did not want the services it would never get to the department in the first place.

CHAIRMAN SIMON asked if a loan were made up to $100,000 the participation can be as high as 50%, so when it exceeds up to $500,000 can it be up to 67%? **Mr. Noel** said the percentage of participation does not go up, it goes down. In a deal where they are investing no more than $100,000 they do not require more than matching funds. If the deal gets bigger, the department's percentage drops.

CHAIRMAN SIMON said if the department's percentage of the deal goes down for loans over $100,000, was it not increasing. The coal tax trust fund, which is administered by the Board of Investments, has a requirement on it for the board to invest 25% of that trust in in-state projects. There was a recent bill that took the Science and Technology portion and set it out by itself even though it is an in-state investment. It was indicated that it not included in in-state investments. The board will not include that in figuring out whether they have the 25%. Is this part of the 25%? **Mr. Noel** said the law gives the Board of Investments permission to invest up to 25%. It is permissive. In this particular case the board does not have the investment authority. If MSTA is considered to be outside that 25%, he said he would consider this to also be outside the 25%.

CHAIRMAN SIMON asked if these investments would all be made within the state of Montana with Montana businesses. **Mr. Noel** said yes. They would all be for an operation located in Montana. The department might invest in Montana operations that happen to be owned by a company outside Montana.

Closing by Sponsor:

The sponsor closed.

HEARING ON HJR 12

Opening Statement by Sponsor:

REP. CHARLES DEVANEY, HD 97, Sheridan County said this bill sets the responsibility for the Legislative Council to review the Reigal-Neill Act passed by Congress in October 1994 to see what economic effects will be on the state and the consumers as well as industry.

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL DATE 1-26-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chair, Maj.	X		
Rep. Bob Pavlovich, Vice Chair, Min.	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella	X		
Rep. Charles Devaney	X		
Rep. Jon Ellingson	X		
Rep. Alvin Ellis, Jr.	X		
Rep. David Ewer	X		
Rep. Rose Forbes	X		
Rep. Jack Herron	X		
Rep. Bob Keenan	X		
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter	X		
Rep. Carley Tuss	X		

EXHIBIT 1
DATE 1-26-95
~~HB~~ SB 38

Senate Bill 38
Job Investment Act
Testimony
January 26, 1995
House Business and Labor Committee

Mr. Chairman and members of the Committee, I am Linda Reed and I represent the Governor's Office. My testimony this morning reflects both my opinions as the Senior Economic Development Advisor in the Governor's Office and my experiences as a bank president and commercial lender.

The Job Investment Act seeks administration of $8 million of the permanent coal tax trust fund for the purpose of establishing a revolving loan fund, proceeds of which will be made available to businesses which are planning to expand and create or retain jobs. Loans will be made in partnership with private lenders, as the Job Investment Act will provide no more than 50% of the total financing required.

The need for this fund was identified from our experience with the Community Development Block Grant Program which is administered in the Department of Commerce. The federal dollars made available for economic development under the CDBG program have been in the range of $2.5 million per year. Our experience shows that these funds are exhausted long before year end and in fact requests totaling 3 to 4 times the amount available are received. The Job Investment Act will augment these federal dollars.

In addition, the Job Investment Act is designed to overcome some of the limitations of the CDBG program. CDBG is a creation of the Department of Housing and Urban Development. As such, its original intent was to foster opportunities within the inner cities, specifically for those individuals whose skill level might only qualify them for low to moderate income jobs. We believe that all job creation is important and therefore there is no requirement that only low to moderate income jobs be created in order to qualify for the Job Investment Act funds.

HUD rules restrict the Department of Commerce from considering loans to businesses located in Billing, Great Falls, and the Indian Reservations. These communities qualify for their own CDBG funds; however, they are often spent on infrastructure projects rather than funding businesses. So restriction prohibits our participation in such projects as the ethanol facilities planned in Great Falls, as they lie inside the city limits.

By tradition, the CDBG funds have been disbursed as grants to local government entities who in turn lend the funds to local businesses. Loan repayments are paid back to the local government and are retained there to be re-loaned to that community's businesses. Some of our communities are very skilled at applying for CDBG funds and as a result concentrations are developing. The Job Investment

Act will be administered at the State level, with loan payments coming back to the State to be re-loaned. In this way we can insure that businesses within communities without mature economic development organizations have opportunities to access these funds.

This is not a subsidized program. Loans made will be at market rates or higher because it is our intent that this portfolio yield a sufficient return to match the earnings rate of the permanent coal tax trust and cover the costs loan servicing and loan reserve expense.

No additional staff within the Department of Commerce is contemplated. Loan servicing will be contracted with local banks or economic development corporations. Our projections include this expense. Loan monitoring will occur with our existing staff of Regional Development Officers who currently provide similar oversight of CDBG loans.

I believe the Job Investment Act will become an important tool to our private lenders as they work to find ways to fulfill the financing needs of existing and new customers. It will be an important tool for us, the State, to use to achieve our number one priority, job creation and business expansion.

On behalf of the Governor and the Montanans who will benefit from the jobs this program creates, I encourage your favorable consideration of the Job Investment Act. Thank you.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor DATE 1-26-95

BILL NO. SB38 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Gloria Palachuk	Richland Development	✓	
Jon Noel	Commerce	✓	
Riley Johnson	NFIB	✓	
Tom Hopgood	Mt. Indep. Bank Assn		
Ron Klaphake	Mgla Area Econ Dev.	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE T. SIMON**, on March 7, 1995, at 8:00 A.M.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. Alvin A. Ellis, Jr. (R)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	SB 151, SB 80, SB 392, SB 400,
Executive Action:	HB 574, SB 400, SB 80, SB 375, SB 384, SB 22, SB 242, SB 19, SB 201, SB 38

EXECUTIVE ACTION ON SB 201

Motion/Vote: REP. EWER MOVED SB 201 BE CONCURRED IN. REP. TUSS MOVED SB 201 BE BROUGHT BACK INTO COMMITTEE TO REMOVED THE TUSS AMENDMENT. Motion carried 18-0.

Motion/Vote: REP. TUSS MOVED TO WITHDRAW THE TUSS AMENDMENT. Motion carried 18-0.

Motion/Vote: REP. TUSS MOVED SB 201 BE CONCURRED IN AS AMENDED. Motion carried 18-0.

CHAIRMAN SIMON relinquished the chair to **VICE CHAIRMAN MILLS.**

EXECUTIVE ACTION ON SB 38

Motion: REP. SIMON MOVED SB 38 BE CONCURRED IN. REP. SIMON MOVED THE SIMON AMENDMENTS.

Discussion:

REP. SIMON explained the Simon amendments.

REP. EWER asked what information will be provided to interested parties regarding the success of this program.

Andy Poole, Deputy Director, Department of Commerce, said within the text of the bill, there is a requirement that the Department report to the Revenue Oversight Committee the progress of the program. The loans which have been made to companies with the funds and the status of those loans is considered. This report would also include the number of jobs which had been created and the leverage of funds.

REP. DEVANEY said there would be a public institution or bank and that bank is going to take the lead on foreclosures. The Department will be forced to go along with the plan.

Vote: Motion carried to adopt the Simon amendments 18-0.

Motion/Vote: REP. EWER MOVED THE EWER AMENDMENTS. A roll call vote was taken which failed 4-12 with REPS. ELLINGSON, EWER, KEENAN and TUSS voting yes.

Motion/Vote: REP. SIMON MOVED SB 38 BE CONCURRED IN AS AMENDED. Motion carried 15-3 with REPS. EWER, KEENAN and TUSS voting no.

ADJOURNMENT

Adjournment: 11:40 A.M.

BRUCE T. SIMON, Chairman

ALBERTA STRACHAN, Secretary

BTS/ajs

HOUSE OF REPRESENTATIVES

Business and Labor

ROLL CALL DATE 3-7-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chairman, Majority	X		
Rep. Bob Pavlovich, Vice Chairman, Minority	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella	X		
Rep. Charles Devaney	X		
Rep. Jon Ellingson	X		
Rep. Alvin Ellis, Jr.	X		
Rep. David Ewer	X		
Rep. Rose Forbes	X		
Rep. Jack Herron	X		
Rep. Bob Keenan	X		
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter	X		
Rep. Carley Tuss	X		

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL VOTE

DATE 3-7-95 BILL NO. SB 38 NUMBER _____

MOTION: Ewer amend

Motion fails

NAME	AYE	NO
Rep. Bruce Simon, Chairman		✓
Rep. Norm Mills, Vice Chair, Maj.		✓
Rep. Bob Pavlovich, Vice Chair, Min.		✓
Rep. Joe Barnett		✓
Rep. Vicki Cocchiarella		✓
Rep. Charles Devaney		✓
Rep. Jon Ellingson	✓	
Rep. Alvin Ellis, Jr.		✓
Rep. David Ewer	✓	
Rep. Rose Forbes		✓
Rep. Jack Herron		✓
Rep. Bob Keenan	✓	
Rep. Don Larson		✓
Rep. Rod Marshall		✓
Rep. Jeanette McKee		✓
Rep. Karl Ohs		✓
Rep. Paul Sliter		✓
Rep. Carley Tuss	✓	

HOUSE STANDING COMMITTEE REPORT

March 7, 1995

Mr. Speaker: We, the committee on **Business and Labor** report that **Senate Bill 38** (third reading copy -- blue) **be concurred in as amended**.

Signed: _____
Bruce Simon, Chair

Carried by: Rep. Simon

And, that such amendments read:

1. Title, line 7.
Strike: "OR"
Insert: "AND"

2. Page 1, line 14.
Following: "expansion"
Strike: "and"
Insert: ","
Following: "creation"
Insert: ", and job retention"

3. Page 1, line 18.
Following: "expansion"
Strike: "and"
Insert: ","
Following: "creation"
Insert: ", and job retention"

4. Page 1, line 27.
Following: "create"

SB 38

Committee Vote:
Yes 15, No 3.

HOUSE

Insert: "and retain"

5. Page 3, lines 18 through 24.
Following: "~~and~~" on line 18
Strike: the remainder of subsection (5)
Insert: "that the job investment loan may not exceed the funding provided by private lenders and that at least one private lender must be a financial institution. The department shall secure the most favorable collateral position possible on any job investment loan."

6. Page 3, line 26.
Following: "review process"
Insert: "that:
(a) incorporate the funding criteria adopted by the department to implement the federal community development block grant program pursuant to 90-1-103(5);
(b) minimize the amount of Job Investment Act funds required; and
(c) require financial institution review and contingent approval of the project before Job Investment Act funds are committed"

7. Page 3, lines 29 and 30.
Following: "deposit" on line 29
Strike: the remainder of line 29 through "and" on line 30

8. Page 4, line 8.
Following: "(2)"
Strike: "A"
Insert: "If a"
Following: "of"
Strike: "department or the loan review"
Following: "committee"
Strike: "who"

9. Page 4, lines 9 and 10.
Following: "application"
Strike: the remainder of line 9 through "processes" on line 10
Insert: ", then the application must be denied"

-END-

HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 38
Representative Royal Johnson

March 9, 1995 1:24 pm

Mr. Chairman: I move to amend **Senate Bill 38** (third reading copy -- blue).

Signed: _____
Representative Royal Johnson

And, that such amendments to Senate Bill 38 read as follows:

1. The House Standing Committee Report amendment no. 5 is amended as follows:
The last sentence of the inserted material is amended to read:

"The department shall secure the ~~most favorable~~ same collateral position ~~possible on any~~ as the financial institution participating in the job investment loan."

-END-

SB 38

ADOPT 81-16

(1)

HOUSE

REJECT

551323CW.Hbk

HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 38
Representative Royal Johnson

March 9, 1995 1:25 pm

Mr. Chairman: I move to amend **Senate Bill 38** (third reading copy - blue).

Signed: _____
Representative Royal Johnson

And, that such amendments to Senate Bill 38 read as follows:

1. Title, line 6.
Strike: "$8"
Insert: "$4"

2. Page 5, line 9.
Strike: "$15.5"
Insert: "$11.5"

3. Page 5, line 16.
Strike: "$8"
Insert: "$4"

-END-

SB 38

ADOPT 74-23

(2)

HOUSE

REJECT

551325CW.Hbk

SENATE BILL NO. 38

INTRODUCED BY BENEDICT

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE JOB INVESTMENT ACT; AUTHORIZING THE DEPARTMENT OF COMMERCE TO ADMINISTER ~~$8~~ $4 MILLION OF THE PERMANENT COAL TAX TRUST FUND FOR LOANS TO BUSINESSES TO CREATE ~~OR~~ AND RETAIN JOBS; AMENDING SECTION 17-6-308, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4 5] gives the department of commerce authority to adopt administrative rules for the administration of the Job Investment Act. The act is intended to provide funding for loans to Montana businesses as part of a financing package to permit business expansion ~~and~~, job creation, AND JOB RETENTION. The act is intended to expand the current capabilities of the economic development portion of the federal community development block grant program, which is highly effective but satisfies only a small portion of the existing need.

The job investment loans are intended to provide a portion of the financing necessary to permit business expansion ~~and~~, job creation, AND JOB RETENTION and may be used only in conjunction with equity and other debt financing in cases in which other funding would not satisfy the total need and would not be available without additional financing under the Job Investment Act.

The community development block grant program has also been used to leverage other forms of public and private financing to support job expansion and retention. The approximately $2.6 million of community development block grant program economic development funding for the current fiscal year amounts to funding for less than one-half of the funding requests received during the first 4 months of the current fiscal year. If annualized, this year's funding experience would result in requests in excess of $10 million. There is opportunity for significant economic impact from an expansion of the state's investment in projects that create AND RETAIN jobs which would not be fully funded from existing sources.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through ~~8~~ 9] may be cited as the "Job Investment Act".

NEW SECTION. **Section 2. Legislative findings -- purpose.** (1) The legislature finds and declares that:

(a) it is the policy of the state to foster and encourage economic development within the state in order to promote the general welfare of the people; AND

(b) access to capital for the creation, expansion, and retention of qualified businesses, particularly for working capital, is a serious problem that inhibits the growth of businesses, jobs, and tax revenue~~; and~~

~~(c) the public sector and the private sector are constrained from satisfying the financial needs of state businesses because of federal and state financial regulatory rules and practices~~.

(2) The purpose of [sections 1 through ~~8~~ 9] is to create a job investment program that encourages and assists in the creation, development, and financing of businesses whose primary obstacle to expansion or retention of employment is access to the appropriate type and amount of financing. This financial need is particularly acute in areas of the state that are economically depressed, and emphasis should be given to projects that will be located in these areas if the projects meet the requirements of [sections 1 through ~~8~~ 9] and rules adopted pursuant to [section ~~4~~ 5] and meet acceptable levels of financial risk as determined by the loan review committee.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through ~~8~~ 9], unless the context requires otherwise, the following definitions apply:

(1) "Department" means the department of commerce provided for in 2-15-1801.

(2) "Loan review committee" means the committee that is established by the department to consider economic development loan applications for funding by the federal community development block grant program and that is responsible for reviewing and approving or denying job investment loans subject to [sections 1 through ~~8~~ 9] and rules implementing [sections 1 through ~~8~~ 9].

(3) "Qualified business" means a business enterprise that either is or will be located in the state and that produces goods or provides services that will, as a result of receiving a job investment loan, create jobs for Montana workers.

NEW SECTION. **SECTION 4. LOAN APPLICANT ENDORSEMENT.** APPLICANTS FOR JOB INVESTMENT LOANS MUST BE ENDORSED BY LOCAL GOVERNMENT ENTITIES OR LOCAL ECONOMIC DEVELOPMENT CORPORATIONS.

NEW SECTION. **Section 5. Rulemaking authority.** The department shall adopt rules to implement the provisions of [sections 1 through ~~8~~ 9], including rules:

(1) determining the amount of interest and the method of computation and payment of interest charged to recipients of job investment loans and specifying amortization schedules and other terms and conditions for job investment loans as necessary. The rate of interest charged on a loan may not be less than the prevailing market rate.

(2) establishing criteria for determining nonperformance and declaring default for a job investment loan;

(3) specifying security and collateral requirements that must be met as a condition of receiving a job investment loan;

(4) encouraging financial institutions to participate to the greatest extent possible in the financing of job investment projects;

(5) requiring ~~at least 50% of project funding to come from equity or debt sources other than a job investment loan; and~~ ~~THAT THE PERCENTAGE OF PROJECT FUNDING THAT MUST COME FROM SOURCES OTHER THAN A JOB INVESTMENT LOAN BE A MINIMUM OF 50% WHEN A JOB INVESTMENT LOAN DOES NOT EXCEED $100,000 AND 67% FOR A MAXIMUM JOB INVESTMENT LOAN OF $500,000. LOAN PARTICIPATION FROM SOURCES OTHER THAN A JOB INVESTMENT LOAN MUST BE IN INCREASING INCREMENTS OF .0425% OVER THE MINIMUM 50% FOR EVERY $1,000 OF A JOB INVESTMENT LOAN IN EXCESS OF $100,000, AND THE FUNDS FROM OTHER SOURCES MUST INCLUDE A LOAN FROM A FINANCIAL INSTITUTION.~~ THAT THE JOB INVESTMENT LOAN MAY NOT EXCEED THE FUNDING PROVIDED BY PRIVATE LENDERS AND THAT AT LEAST ONE PRIVATE LENDER MUST BE A FINANCIAL INSTITUTION. ~~THE DEPARTMENT SHALL SECURE THE MOST FAVORABLE COLLATERAL POSITION POSSIBLE ON ANY JOB INVESTMENT LOAN.~~ THE DEPARTMENT SHALL SECURE THE SAME COLLATERAL POSITION AS THE FINANCIAL INSTITUTION PARTICIPATING IN THE JOB INVESTMENT LOAN.

(6) establishing appropriate loan loss reserves; and

~~(6)~~(7) providing for an application process and a loan review process THAT:

(A) INCORPORATE THE FUNDING CRITERIA ADOPTED BY THE DEPARTMENT TO IMPLEMENT THE FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM PURSUANT TO 90-1-103(5);

(B) MINIMIZE THE AMOUNT OF JOB INVESTMENT ACT FUNDS REQUIRED; AND

(C) REQUIRE FINANCIAL INSTITUTION REVIEW AND CONTINGENT APPROVAL OF THE PROJECT BEFORE JOB INVESTMENT ACT FUNDS ARE COMMITTED.

NEW SECTION. **Section 6. Job investment administrative account.** There is a job investment administrative account in the state special revenue fund. The department shall deposit ~~all loan origination fees, all service charges, and~~ up to ~~2%~~ 20% of interest payments on job investment loans into the account. Money in the account must be used to pay the costs of administering [sections 1 through ~~8~~ 9], including personnel costs, operating costs, and administrative costs.

NEW SECTION. **Section 7. Loan review committee -- conflict of interest -- servicing of loans.** (1) The department shall establish a loan review committee to administer [sections 1 through ~~8~~ 9]. The committee shall accept and review loan applications pursuant to rules adopted by the department. The committee shall approve or disapprove loans. A loan may not exceed $500,000.

(2) ~~A~~ IF A member of the ~~department or the loan review~~ committee ~~who~~ has a financial interest in a business that submits a job investment loan application ~~shall disclose the interest and abstain from any involvement in the application, due diligence, and approval processes~~, THEN THE APPLICATION MUST BE DENIED.

(3) The department ~~may~~ SHALL contract for the servicing of loans.

NEW SECTION. **Section 8. Legislative oversight.** The department shall report to the revenue oversight committee annually on the performance of the job investment program. The report to the committee must include:

(1) a summary of all loans made during the year;

(2) an analysis of job creation goals and performance;

(3) a summary of loan terms and conditions;

(4) a summary of funds leveraged with job investment loans; and

(5) an analysis of the job investment portfolio performance including calculations for returns on investments.

NEW SECTION. **Section 9. Grants, gifts, and donations.** The department may accept grants, gifts, and donations for purposes of [sections 1 through ~~8~~ 9]. The department may expend the funds pursuant to laws and conditions governing the funds.

Section 10. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. (1) Except as provided in subsections (2) ~~and (3)~~ through (4) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions ~~as~~ determined by the board ~~determines~~ and must be repaid from ~~revenues of the board~~ revenue realized from the exercise of ~~its~~ the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the ~~revenues~~ revenue to the bonds and notes.

(3) The board shall allow the Montana board of science and technology development, provided for in 2-15-1818, to administer ~~$15.5~~ $11.5 million of the permanent coal tax trust fund for seed capital project loans and $8.1 million of the permanent coal tax trust fund for research and development project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1997, for seed capital project loans and beyond June 30, 1995, for research and development project loans. Until the Montana board of science and technology development makes a loan pursuant to the provisions of Title 90, chapter 3, the funds under its administration must be invested by the board ~~of investments~~ pursuant to the provisions of 17-6-201.

(4) The board shall allow the department of commerce to administer ~~$8~~ $4 million of the permanent coal tax trust fund for job investment loans pursuant to [sections 1 through ~~8~~ 9]. As loans are repaid, the department of commerce may reinvest the principal in new loans. Until a loan is made, the board shall invest the funds pursuant to 17-6-201.

~~(4)~~(5) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations."

NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through ~~8~~ 9] are intended to be codified as an integral part of Title 17, chapter 6, and the provisions of Title 17, chapter 6, apply to [sections 1 through ~~8~~ 9].

NEW SECTION. **Section 12. Effective date.** [This act] is effective July 1, 1995.

-END-

Conference Committee
on SB 38
Report No. 1, March 22, 1995

Mr. President and Mr. Speaker:

We, your Conference Committee on SB 38, met and considered: House floor amendments to third reading copy (blue)

We recommend that SB 38 (reference copy - salmon) be amended as follows:

1. Title, line 6.
Strike: "$4"
Insert: "$8"

2. Page 3, line 27.
Strike: "SAME"
Insert: "most favorable"

3. Page 3, line 28.
Strike: "AS THE FINANCIAL INSTITUTION PARTICIPATING IN THE"
Insert: "possible on any"

4. Page 5, line 20.
Strike: "$11.5"
Insert: "$15.5"

5. Page 5, line 27.
Strike: "$4"
Insert: "$8"

And that this Conference Committee report be adopted.

For the Senate:

Benedict
Chair

Hertel

Lynch

Amd. Coord.

For the House:

Simon
Chair

Pavlovich

Hibbard

Rosana Skelton
Sec. of Senate

ADOPT

REJECT

CCR#1
SB 38

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 038

Call to Order: By **CHAIRMAN STEVE BENEDICT**, on April 10, 1995, at 10:35 a.m.

ROLL CALL

Members Present:
Sen. Steve Benedict (R)
Sen. John R. Hertel (R)
Rep. Royal C. Johnson (R)
Rep. Mike Kadas (D)
Rep. Bruce T. Simon (R)

Members Excused: Sen. J.D. Lynch (D)

Members Absent: None

Staff Present: Bart Campbell, Legislative Staff
Jennifer Gaasch, Secretary

Discussion:

CHAIRMAN BENEDICT stated he would like to see this bill to go through in some form. It is important for creating jobs.

REPRESENTATIVE MIKE KADAS asked **Linda Reed** what the interest rates would be that the loans would going out at? **Linda Reed** said they would be above market rate. She said they did not see them as being a subsidized interest rate. The goal was to return yield to the trust fund that would be comparable to what it was currently earning. She said it would not be below a bank rate.

REP. KADAS asked what a bank rate would be for those types of loans? **Andy Poole** replied the interest rate they used on the fiscal note was 8%. That was the number based on the current trust fund earnings. **REP. KADAS** asked what a bank rate be? **Andy Poole** said the prime lending rate was around 8%. **REP. KADAS** said if they can match the long term investment pool rate then in all likely hood they will be under what a commercial rate would be for a loan of this type. He said so they would be able to give that borrower a better rate than what the bank can give. He said they would be an incentive for the bank to give for the bank to go ahead and participate the loan even though they were not on first position on the lien. He said that was the problem he was having. He said he wanted the state to be ahead of the principal

financial institutions in order to offer security to the state. He said that it seemed there was an incentive there to allow that to happen.

Linda Reed replied the difficulty is going to become in the fact that a lot of the loans are going to have Small Business Administration (SBA) guarantees attached to them and there is no way to participate.

CHAIRMAN BENEDICT asked what kind of collateral do they have with the micro business development loans? **Andy Poole** replied they have collateral on everything they can get from the micro business enterprise person. He said the asset would be financed. **CHAIRMAN BENEDICT** asked if he would characterize those as a little bit more unstable than the collateral position would be developing from these loans? **Andy Poole** replied absolutely. The experience they have in the Department of Commerce is basically with the Community Development Block Grant (CDBG) program. They are typically not financing the assets that the bank is. The bank usually does the land and buildings and the state usually ends up financing equipment or working capital. He said they end up with the first collateral position on the assets that they are financing with CDBG and he would expect that to be the same with this program. **CHAIRMAN BENEDICT** replied his point was when they do other types of loans like that the collateral position is the best the state can get, but it still risks capital and it still is to try to develop jobs. They have done a good job lately in CDBG and the micro business development. Those are small loans to start up companies that have an idea and hope they can get going. He said they have created quite a few jobs with that. He said the collateral position they are in here is even better than what they are in with micro business development because they are not companies that hope they can get going, they are companies that want to expand.

REP. KADAS said the two major differences with this program and with micro business at least are the size of the loans and the potential political pressure that will always be there. He said there was not that kind of pressure with the micro business program. He said leaving it as open as it is invites a certain aspect of political corruption. He said this was the kind of program that would get instituted and go on and that will happen some time or another. He said the state can not afford that fiscally or even politically. He said he would like to do it in a way that would offer more security.

Andy Poole replied that technically there was not a way for them to take an equal collateral from the bank because of the mechanics of lending when there are 2 or 3 different lenders does not work.

REP. KADAS asked how the SBA guarantee works? Is that the only money that a bank would be putting up? **Andy Poole** replied the majority of the loans that are made in Montana through lending

institutions for commercial purposes are made with SBA guarantees. **Linda Reed** replied the bank funds the entire loan. The SBA only guarantees repayment of a certain portion of that loan if it was to go into default. The percentage varies depending on the loan type and the quality of the borrower.

REPRESENTATIVE ROYAL JOHNSON said it was usually in the 90% range.

Linda Reed replied that no, that is no longer true.

REP. R. JOHNSON asked what percentage was it today. **Linda Reed** replied at the highest 75% was typical.

CHAIRMAN BENEDICT asked under uniform commercial codes, can there be a shared first position under UCC's? **Andy Poole** replied he did not have any first hand knowledge. He said the director of the department has said that there can not be a shared first position on a UCC. **Linda Reed** replied the only way that could happen was if the 2 parties were indicated to be 1 creditor.

REP. R. JOHNSON said there is a way to have collateral equality and that is by using a partnership arrangement on the loan. He said what they really do is ask the bank to loan at a greater rate, the state to take a lessor rate, the bank to take the best collateral and the state to take the lessor collateral and working capital, accounts receivable and equipment are a much lessor collateral than buildings and land. He said they were going to charge them a lower interest rate. He said the banks in Montana would like to see that state grow in the same way the legislature in the state does. He said he was concerned about where the money was going to come from. There will be more risks taken. They should take the money out of a place that was already authorized the money to be used from which would be out of the Seed Capital end of the Montana Science and Technology. There is over $7 millon left in there. **REP. R. JOHNSON** said they have that amount of money in there. It would give them 2 years to see if that program would be any more successful that Montana Science and Technology and if they take $4 million of that it would still leave them some money to use. He said in the bill it stated there would be a committee appoint to make the loan and they do not need any more committees. He said that was the position he would risk being in.

CHAIRMAN BENEDICT said when using the Seed Capital money is that money is venture capital which is more risky than this. Actually they were creating something less risky than they originally intended the Seed Capital money to.

REP. R. JOHNSON replied he said it had not done anything for them. He said they should go back to the way it came out of the house except that they would say they would take the best negotiated position. He said the best negotiated position of lessor interest is not the best possible position.

Andy Poole replied he did not think they would have any objection to indicating that the financial institution has to be a part of the deal. They would be at least at the rate that they other lender would.

CHAIRMAN BENEDICT said they had prime and plus 2%.

Andy Poole replied the 2% was in the market rate of return and that would basically be used for servicing.

CHAIRMAN BENEDICT replied they have to put together a reserve.

Linda Reed replied there should be sufficient funds with that 2%.

REP. KADAS replied he was not pleased with the R and D program either. He said he was still not comfortable on their position on the collateral. It could be the same or better.

CHAIRMAN BENEDICT said they should just cut the banks out of the loop and make direct loans.

REP. KADAS replied that would make it worse.

CHAIRMAN BENEDICT replied they would have first position on everything.

REP. KADAS replied that was correct, but they would not have any expertise.

Andy Poole said the program was designed so that banks would have to be included in the loan review process. The majority of the people who are on the CDBG committee are economic development finance professionals and they know a lot about lending. He said that group is as good as they would find in almost every loan review they would want to look at.

REP. KADAS replied he would feel better about it if someone else was putting their money up and us not being in a worst position to recover than them.

Andy Poole replied typically what they have found was that micro business enterprises that they have been funding through the micro business program. Those people would graduate from that program and would be large enough that they need to move on to another company. They do not have any equity and so they cannot go to the bank to get the first round financing. The programs are designed so that the money that is coming in from the state looks like equity to them. If they are going to create employment in the state they need to say they are partners in that. If the state is not involved in a program like that a lot of the deals are not going to happen because the owner does not have the equity to put into that.

REPRESENTATIVE DUANE SIMON asked what would the kinds of assets that would be financed by this kind of financing and how that might break down? He asked how the money was going to be used?

REP. KADAS replied he had to be excused from the meeting. He said he would not feel comfortable signing the free conference committee report. He said if they could think of a way to satisfy him in another way he would be interested in that. He understood the need to create jobs, but he was leery of the state in that area.

CHAIRMAN BENEDICT replied he did not see those potential problems with the micro business development.

REP. KADAS replied there are similar problems, but there was cleary a place where the industry was not involved.

CHAIRMAN BENEDICT replied that was underneath the threshold where they wanted to get the loan.

REP. KADAS replied the program was set up to provide assistance of the type that those businesses need. The other thing was a track record of those businesses having those loans without of state money and that was working.

CHAIRMAN BENEDICT replied he was having a hard time figuring out where the difference was between the type of risk involved in this and the risk involved in that.

REP. KADAS replied the amount of money and the political pressure that can come to bear.

CHAIRMAN BENEDICT said there was political pressure on the micro business too.

REP. KADAS replied no, not at all.

CHAIRMAN BENEDICT replied that there is a lot of politics in that.

REP. KADAS replied it was not like what he could anticipate could happen here.

Andy Poole replied he had been involved in the committee process for a number of years and the issues he was talking about have never been an issue. They do not make loans for CDBG or any other thing unless the financial shows that is a risk in design with the program.

SENATOR JOHN HERTEL asked how much had they made in loans in the last biennium? **Andy Poole** replied about $4.5 million from CDBG.

SEN. HERTEL asked how much out of that program would be in default? **Andy Poole** replied zero. Some of those loans have 2 to 3 month deferrals to get the company running. Each of those loans is current with their payments.

SEN. HERTEL asked what the percentage of the defaults would be? **Andy Poole** replied since 1990 there has not been a default.

REP. SIMON asked if it would be to have a new conference committee report that would be amendments 2 and 3 on the previous conference committee report?

CHAIRMAN BENEDICT replied the new free conference committee report would be 1,4, and 5 of the conference committee report.

REP. R. JOHNSON replied the fiscal note showed they were going to add $18,000 to the Department of Commerce for that situation. **Andy Poole** had said they have the expertise over there and there should be no reason for another $18,000 over there. He said the fiscal note indicates they would be using contracted service for loan servicing and administration using $80,000. He said if they do have that kind of expertise and they do make the kind of loans they were talking about they should not need that kind of additions in the staff.

Andy Poole replied the $18,000 and the $80,000 is 20% of the projected interest of the loans that would be made and that would all go toward loan servicing based upon a schedule of making a loan every 3 months equal to $300,000 and making a loan every month, $300,000 and receiving the first payment 3 months after the loan is made.

REP. JOHNSON asked if the banks wait 3 months for their interest payment? **Andy Poole** said the set of loan payment and principal and interest begins on each loan 2 months after funds are lent. He stated that was the way the fiscal note was developed.

REP. JOHNSON asked why they needed $18,000 and $80,000 if they have the people who can make the loans and they have the expertise? **Andy Poole** replied that was for loan servicing. They pay that to the banks who are receiving the loan payments. They would typically be getting 1% to 1.5% of the loan interest for loan servicing.

REP. JOHNSON replied they were going to let the banks service their loan and pay them that kind of money that we were supposedly subservient to in that loan arrangement. **Andy Poole** [illegible] it may be the bank, it may be a local development [illegible] and it may be the Department of Commerce, but each [illegible] by and have service by the person in the most [illegible] They would be negotiating rates. The [illegible] intended to be used by a service for [illegible] they would spend some money in

adopting rules and having application forms printed and other expenses like that, but that money was not intended for internal operation by the Department of Commerce.

REP. JOHNSON asked if they contracted with one bank to do all of those things? **Andy Poole** replied they wanted to do it in the most efficient way they can. If the bank was participating in the loan it would be best to negotiate with them and ask if they would service the loan for them for a reasonable fee. He said that would keep them from having to hire someone to keep track of all of that.

REP. JOHNSON replied that for $80,000 they can hire a lot of people at the Department of Commerce. He said they were talking about them being in a junior position for them to be able to make a loan.

CHAIRMAN BENEDICT replied that it was only $40,000. There is 1% on $8 million.

REP. JOHNSON replied they were taking a position less. They were helping those people make a loan and then they would be giving them servicing money on top of that.

Andy Poole replied they were not going to do the servicing unless they were going to get paid something.

REP. JOHNSON replied unless they make a loan with them.

Andy Poole replied if they wanted them to do it at the Department of Commerce that would be fine, but he did not think that would be the most efficient way to do it.

REP. SIMON replied he did not think there would be that many total loans and it seems like an awful lot of money to service a small number of loans. He asked what they had to do to service a loan and why would it take $40,000 to accept loan payments.

Andy Poole replied they also have to fund the loan loss reserve.

Linda Reed replied that amount would also fund a loan loss reserve. There is some working in terms of collecting payments and keeping track of principal and interest from the servicing side. Most of the banks in Montana are not large enough to have automated systems and so the work is done manually. She said the loan loss reserve was the very important part.

REP. JOHNSON asked what about the loan loss reserve.

Linda Reed replied they have talked about in the past was over time building up the loan loss reserve to 3% of out standing balances. They cannot start at 3%, but the would build that up.

REP. JOHNSON asked how do they envision the first loans they make as far as the loan loss reserve?

Linda Reed replied that they would have 1% in the first year, 2% in the second year and then looking at the history to see if they would want to increase that to 3% in the third year or not.

REP. JOHNSON asked what was the percentage of the servicing fee?

Linda Reed replied she did not know what that would be because it would be negotiated with the banks and it would depend on the type of loan they were talking about.

REP. JOHNSON asked having recently come from that industry would **Linda Reed** give him a guess? **Linda Reed** replied they had never negotiated a service fee with the state because they were all dictated to them. For the Board of Housing those fees start at .%5 and go up from there to the Board of Investment.

REP. JOHNSON replied they were talking about quite a lot more money in the Board of Investments. **Linda Reed** replied it was a percentage of the payment collected. It had nothing to do with the size of the portfolio or the loan. It was a function of each payment collected.

CHAIRMAN BENEDICT replied the banks would probably be willing to live with a little bit less on a lot larger portfolio.

Linda Reed replied that was true.

REP. SIMON said he hoped that there was some pathway to the loans so they would not have everyone having loans unless they tried to go through "normal" channels first.

Linda Reed replied especially since they have reduced the funding to $4 million they would be motivated to spread that money as far as they can.

Motion:

CHAIRMAN BENEDICT MOVED to amend SB 38. That would be taking the conference committee amendments numbers 2 and 3 on those amendments and deleting the rest of those amendments.

Discussion:

Bart Campbell said they would be recommending the salmon copy to be amended as follows, number 1 would come out of the bill, number 2 would become number 1, and number 3 would be number 2 and 4 and 5 would be deleted.

REP. SIMON asked if **REP. JOHNSON** would carry SB 38 on the floor.

REP. JOHNSON replied he would. He said that if **REP. KADAS** opposed it on the floor then the bill might not pass any way.

REP. SIMON replied it would be better for someone else to carry the bill this time around.

Vote:

The **MOTION CARRIED** with **SENATORS HERTEL, BENEDICT and LYNCH (voting by proxy)** voting yes, and **REPRESENTATIVES JOHNSON and SIMON** voting yes. **REPRESENTATIVE KADAS** did not vote.

Discussion:

REP. JOHNSON asked if the section 8 was coordinated with the new section 11.

Bart Campbell replied he did not know, but he would check on that.

CHAIRMAN BENEDICT replied that they should put a coordination clause in there. He said they could make them report to the legislative auditor.

REP. JOHNSON replied they should report to the Finance Committee because that is where the revenue over sight committee will go.

Andy Poole said that in terms of operating authority they were going to need the 20% of the interest to do what they have to do to make the program operate.

REP. JOHNSON replied that was alright. He asked if they were going to hold onto the 20 % for operating. He said they had less work to do now with the Science and Technology loans.

Andy Poole replied he had been on both sides of the issue and they do not have enough they cannot do the job. If they have too much they will not spend it.

REP. JOHNSON stated that **REP. JOHNSON** is not comfortable with the way it is and they way they are suggesting. **REP. JOHNSON** stated if **REP. KADAS** is absolutely against that then he would not want to carry SB 38 on the floor of the House.

ADJOURNMENT

Adjournment: 11:30 p.m.

SENATOR STEVE BENEDICT, Chairman

JENNIFER GAASCH, Secretary

SB/jg

Free Conference Committee
on SB 38
Report No.1, April 10, 1995

Mr. President and Mr. Speaker:

We, your Free Conference Committee on SB 38, met and considered:

SB 38 in its entirety

We recommend that SB 38 (reference copy - salmon) be amended as follows:

1. Page 3, line 27.
Strike: "SAME"
Insert: "most favorable"

2. Page 3, line 28.
Strike: "AS THE FINANCIAL INSTITUTION PARTICIPATING IN THE"
Insert: "possible on any"

And that this Free Conference Committee report be adopted.

For the Senate:

Benedict
Chair

Hertel

Lynch

Amd. Coord.

Sec. of Senate

For the House:

R. Johnson
Chair

Simon

Kadas

ADOPT

REJECT

SB 38
FCCR #1
821158CC.SRF

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 038

Call to Order: By **CHAIRMAN STEVE BENEDICT**, on April 12, 1995, at 1:03 p.m. in Room 402.

ROLL CALL

Members Present:
Sen. Steve Benedict (R)
Sen. John R. Hertel (R)
Sen. John "J.D." Lynch (D)
Rep. Royal C. Johnson (R)
Rep. Bruce T. Simon (R)
Rep. Mike Kadas (D)

Members Excused: None

Members Absent: None

Staff Present: Greg Petesch, Legislative Council
Carla Turk, Secretary

Discussion:

CHAIRMAN BENEDICT stated the purpose of the Free Conference Committee was to readopt the amendments adopted in the previous Conference Committee and to look at new amendments contained in sb003804.agp, as to their affect. He said the amendments in sb003804.agp would: move $3-million of authorized, but unused seed capital into Research and Development (R&D); and enfold the mezzanine financing loans into the Montana Science and Technology Alliance (MSTA) where it would become a portion of the seed capital loans; to make the Program a revolving loan fund; add a retroactive applicability date; and reduce the rate of "payback" of R&D from "two" to "1.5" times. He asked **Linda Reed** of the Governor's Office if she had anything to add in explanation of the amendments? **Ms. Reed** said the Universities were currently repaying at 2.5 times. She said current Statute required "payback" to occur at a rate of at least "two", and understood the Universities current contract stated a "payback" at "2.5"

CHAIRMAN BENEDICT stated there was already $6-million in R&D funds which had been expended and this amendment would authorize another $3-million, for a total of $9-million. **Linda Reed** attested that was correct.

CO-CHAIRMAN ROYAL JOHNSON asked for a recounting of the proposed fund authorization. **CHAIRMAN BENEDICT** stated that $6-million in R&D funds had been allocated to the University System, with $.5-million remaining in authorized R&D funds, and this amendment would move $3-million of seed capital money into R&D for the University System.

CO-CHAIRMAN JOHNSON clarified that the amendment would give the University System an additional $3-million. **CHAIRMAN BENEDICT** stated that was correct.

CO-CHAIRMAN JOHNSON asked if the Universities had currently committed $7.5-million of their appropriations? **Ms. Reed** stated the Universities had currently committed approximately $6-million in R&D appropriations allocated from the MSTA. She explained that the entire amount had not been funded, but $6-million was committed.

CO-CHAIRMAN JOHNSON asked if the current amount available to the Universities wasn't $8-million? **Ms. Reed** replied yes, there was current authorization for $8.1-million in R&D appropriations allocated from MSTA. She clarified that the $8.1-million was authorized for both University System and private sector research and development projects. He stated that a portion of the authorization had been loaned to private sector companies for research and development and $6-million was currently committed to the University System. She said a portion of the $6-million had already been distributed to the Universities.

CO-CHAIRMAN JOHNSON asked how the uncommitted $500,000 figure was arrived at? **Ms. Reed** said that of the $8.1-million total authorization, $500,000 remained uncommitted.

CO-CHAIRMAN JOHNSON clarified that **Ms. Reed** was stating the $.5-million remained, and asked if there had been an original "breakdown" of how the $8.1-million was to be allocated to the private sector and/or the University System? **Ms. Reed** replied no, there was not.

CO-CHAIRMAN JOHNSON asked if it had been on a first come, first serve basis? **Ms. Reed** replied, yes sir.

REPRESENTATIVE BRUCE SIMON asked if, essentially, the proposal was that $4-million of currently authorized MSTA money for mezzanine financing, and $3-million currently authorized seed capital money allocated to MSTA would be earmarked as R&D money under MSTA, which would increase their authorization? **CHAIRMAN BENEDICT** stated that wasn't entirely accurate, and asked **Ms. Reed** to clarify.

Ms. Reed said the seed capital authorization was currently $15.5-million, and R&D was $8.1-million. She said the proposal was to move $3-million from seed capital into R&D, which would equal $12.5-million in seed capital and $11.1-million in R&D. She said that of those amounts, currently $7.6-million of the $8.1-million in current seed capital authorization had been committed, while $500,000 remained uncommitted. She said that of the $15.5-million, currently everything but $7.6-million had been committed. She stated a small excess currently existed in both seed capital and R&D authorizations. She said they were suggesting reauthorization of $3-million, of the uncommitted $7.6-million, from seed capital authorization into R&D. She said that $3-million, plus the $500,000 of currently uncommitted R&D appropriations would total $3.5-million which would be available for R&D appropriations to the University System. **Ms. Reed** stated the amendments would exclude lending opportunities to private sector companies or research and development businesses.

REPRESENTATIVE SIMON asked if the $4-million for mezzanine financing would also be reappropriated from seed capital allocations? **Ms. Reed** stated that was correct. She said the $4-million would become available for both seed capital and mezzanine financing, with no distinction in terms of amount what might be used for one program versus the other. She reiterated that this $4-million would no longer be available to private companies. She said the remaining $4.6-million would be available for private research and development. She stated there was no new money being authorized.

REPRESENTATIVE SIMON stated the mezzanine financing could theoretically be as high as $4.6-million, if all of the seed capital money was used for that purpose. **Ms. Reed** stated that was correct.

REPRESENTATIVE MIKE KADAS asked if all of the seed capital loans were going to become revolving loans, rather than a "payback" to the Trust Fund? **Ms. Reed** said right, and that would actually echo what had been with the mezzanine financing bill, as a revolving loan fund. She said this would "sunset" in 1997, and these types of programs, or pieces of them, could essentially be eliminated. She said that the elimination of the programs would allow all of the remaining money and repayments to be returned to the Trust Fund.

REPRESENTATIVE KADAS asked if the remaining unauthorized funds could be loaned if the programs were to sunset in 1997, with any repayment after 1997 having to be returned to the Trust Fund? **Ms. Reed** said she understood that the entire issue would be revisited in two years, and that any unused authorization would expire unless the authorization term was extended. She said that if the term extension was not granted and the MSTA programs were not renewed, the loan payments would be repaid to the Trust Fund.

CHAIRMAN BENEDICT asked if the Department of Commerce would assume administration responsibility for the loans if MSTA no longer existed? **Ms. Reed** stated that would be her guess, as at that point there would essentially be a liquidation process regarding the administration of the remaining assets which existed.

CHAIRMAN BENEDICT stated the return on these loans would be very slow. **Ms. Reed** agreed that the ultimate repayment would be very slow, as the current payments were $250,000 annually.

REPRESENTATIVE KADAS asked what the effective interest rate pertaining to that payment? **CHAIRMAN BENEDICT** stated the proposed authorization rate would be 2.5%. He said that a payment of $250,000 on approximately $10-million would be about 2.5%.

REPRESENTATIVE KADAS asked why a specific rate of repayment and interest couldn't be set on the authorization, versus a stated dollar amount and the 1.5 or two times? **CHAIRMAN BENEDICT** and **Ms. Reed** both replied that the Universities couldn't afford that. **Ms. Reed** clarified that in addition to the $250,000, a percentage of royalty and licensing fees was required to be paid from any project funded under research and development. She said the rate of "payback" would be determined by which was greater, the percentage of royalties and licensing fees or the set rate in Statute. She said that if any one of the projects showed substantial growth, the cash flow created through the greater royalty and licensing fee percentage could be tapped to make repayment, rather than the set rate totaling $250,000 annually. She said there was that potential for quicker repayment than an amortization of $250,000.

REPRESENTATIVE KADAS asked how long repayment was going to take at the "1.5 times"? **Ms. Reed** stated she did not have that information.

REPRESENTATIVE KADAS asked if all of the current seed capital loans were going to become revolving? **CHAIRMAN BENEDICT** said yes, if they were a loan.

Greg Petesch said that when the authority for R&D was retained, in the proposed amendment, there was a termination date of June 30, 1995. He stated the amendments would need to include an immediate effective date to avoid termination prior to granting additional authority.

REPRESENTATIVE KADAS asked for clarification and if the entire [illegible] was to sunset in 1997? **Greg Petesch** said the language [illegible] on page 5, line 23. He stated that "1995" could be [illegible] be inserted.

CO-CHAIRMAN JOHNSON asked for clarification of the number of dollars currently committed under R&D? **Ms. Reed** answered $7.6-million.

CO-CHAIRMAN JOHNSON asked what portion of the committed authorization had not been funded, $1.6-million? **Ms. Reed** said she did not know. She said the commitment had been made to the Universities these projects and the funding currently hadn't been called for. She said those projects were funded quarterly or semi-annually as the matching funds were received, and the committed funds resided in MSTA until those matching funds were remitted.

CO-CHAIRMAN JOHNSON addressed the Chairman and said that given the information, he was willing to accept the situation, except for the reduced "payback" of the University loans. He said he didn't see any reason for reducing the "payback" rate when it was known that no more than $250,000 would be received from the University System, which was currently being used to fund this whole program. He said if this program wasn't actually going to "sunset" in two years, why would the Legislature want to reduce the "payback" from "2.5" times back to "1.5" times. **CHAIRMAN BENEDICT** rereferred, by asking if that was the desire of the Governor? **Ms. Reed** said she thought it was something the MSTA Board had thought was practical because they could see the University payments increasing as a result of the Bill.

CO-CHAIRMAN JOHNSON stated he felt that $250,000 on a $8-million note was a pretty inadequate repayment schedule. He said that if the University System was going to be given an additional $8-$13-million from the total Coal Tax Trust, he hoped the Legislature would have considered having a better "payback" than was historically there. He said the proposal would reduce the original "payback" agreement all of the University loans, and he did not think was a fair thing to do.

REPRESENTATIVE KADAS stated the Universities were currently repaying $250,000 annually, and asked if they would only be required to make the $250,000 annual "payback" even though they received the additional funds, or would it be $500,000 a year. **Ms. Reed** said they contemplated the payments would increase, but it wasn't likely they would double.

REPRESENTATIVE KADAS said he would agree with **REPRESENTATIVE JOHNSON** that he would rather see the "1.5" times left in place rather than the "2" times in the Bill.

Motion:

SENATOR LYNCH MOVED AMENDMENT NUMBER sb003804.agp.

REPRESENTATIVE SIMON asked if **SENATOR LYNCH'S** motion was intended to included the amendments in SB003804.agp and the conceptual amendment for an immediate effective date? **SENATOR LYNCH** stated yes.

Motion:

CO-CHAIRMAN JOHNSON MADE A SUBSTITUTE MOTION TO ADOPT THE PREVIOUS MOTION FOR AN IMMEDIATE EFFECTIVE DATE AND THE AMENDMENTS IN sb003804.agp, EXCEPT FOR REDUCING THE "PAYBACK" ON THE UNIVERSITY SYSTEM LOANS.

Discussion:

CO-CHAIRMAN JOHNSON explained that he wished to strike the amendment which reduced the "payback". **Greg Petesch** said that amendments 2, 8 and 9 would need to be struck.

THE QUESTION WAS CALLED FOR.

Vote:

CO-CHAIRMAN JOHNSON'S SUBSTITUTE MOTION TO ADOPT THE PREVIOUS MOTION FOR AN IMMEDIATE EFFECTIVE DATE AND THE AMENDMENTS IN sb003804.agp, EXCEPT FOR NUMBER 2, 8, & 9 CARRIED, WITH REPRESENTATIVE LYNCH VOTING NO.

Discussion:

REPRESENTATIVE KADAS asked if the mezzanine financing program would be administered by the MSTA? **Ms. Reed** stated that was the intent.

REPRESENTATIVE KADAS stated he would rather leave the administration as it was. **CHAIRMAN BENEDICT** said he did not see how that could be accomplished, as the money was being moved into MSTA and he thought the administration had to remain with MSTA Board.

CO-CHAINMAN JOHNSON stated MSTA was part of the Department of Commerce and asked if the staff was the same for both. **Ms. Reed** stated that MSTA had its own independent staff.

CHAIRMAN BENEDICT explained that the MSTA staff funding came from outside the budgeting process, through interest and paybacks.

CO-CHAIRMAN JOHNSON said the Board was actually part of the budgeting process. **CHAIRMAN BENEDICT** answered yes, to a degree, as they were within special revenue rather than general fund. He stated that the Department of Commerce was funded through general fund.

Discussion:

CO-CHAIRMAN JOHNSON stated an inclination to agree with **REPRESENTATIVE KADAS** regarding who should administer the Program. He said it was alright to have the MSTA Board decide mezzanine and the venture capital loans, but stated he would like the staff currently administering the Community Development Block Grant (CDBG) loans should have a voice in the type of loans to be let. He said he thought that staff currently did have an actual voice in those decisions.

SENATOR LYNCH said he thought that staff did have a voice, but too much administrative layering could give the ultimate authority to staff in the Department of Commerce.

CO-CHAIRMAN JOHNSON said he understood that the MSTA Board got the loans after they had been reviewed by the staff. **SENATOR LYNCH** stated that was fine, and this would remain the same.

CHAIRMAN BENEDICT asked if **Ms. Reed** would like to clarify. **Ms. Reed** said that currently the MSTA staff reviewed the MSTA loan requests and the current language of the Bill would give review authority to the Department of Commerce staff. She said that instead of having MSTA staff review mezzanine financing loans, the current existing review staff could be authorized to review and recommend to the MSTA Board on these loans.

CHAIRMAN BENEDICT asked if the language was needed in Statute, or could it be done by rule? **Greg Petesch** said he thought the language should be clarified in the Bill.

REPRESENTATIVE SIMON suggested the clarification should be made in Section 7 of the Bill.

Motion/Vote:

REPRESENTATIVE KADAS' MOTION TO ADOPT THE CONCEPTUAL AMENDMENT WITH THE AUTHORITY FOR GREG PETESCH TO DRAFT THE APPROPRIATE LANGUAGE CARRIED UNANIMOUSLY.

Motion/Vote:

REPRESENTATIVE SIMON'S MOTION TO ADOPT THE PROPOSED AMENDMENTS, INCLUDING THE CONCEPTUAL AMENDMENTS AND THE AMENDMENTS IN THE PREVIOUS FREE CONFERENCE COMMITTEE REPORT OF APRIL 10 CARRIED UNANIMOUSLY.

Motion/Vote:

SENATOR LYNCH'S MOTION TO ADOPT THE BILL AS AMENDED, AMENDED CARRIED UNANIMOUSLY.

Discussion:

CHAIRMAN BENEDICT asked if everyone was comfortable in signing the Free Conference Committee Report? **REPRESENTATIVE KADAS** stated he would not be able to sign.

ADJOURNMENT

Adjournment: The meeting was adjourned at 1:29 p.m.

SENATOR STEVE BENEDICT, Chairman

CARLA TURK, Secretary

SB/cmt

Amendments to Senate Bill No. 38
Reference Reading Copy

For the Free Conference Committee

Prepared by Greg Petesch
April 12, 1995

1. Title, line 7.
Following: ";"
Insert: "REVISING THE ADMINISTRATION OF PERMANENT COAL TAX TRUST FUNDS FOR SEED CAPITAL AND RESEARCH AND DEVELOPMENT PROJECTS;"
Strike: "SECTION"
Insert: "SECTIONS"
Following: "17-6-308"
Insert: "AND 90-3-524"

2. Title, line 8.
Following: "DATE"
Insert: "AND A RETROACTIVE APPLICABILITY DATE"

3. Page 5, line 20.
Strike: "$11.5"
Insert: "$12.5"

4. Page 5, line 21.
Following: "loans"
Insert: "or mezzanine financing"
Strike: "$8.1"
Insert: "$11.1"

5. Page 5, line 22.
Strike: "loans" through "3"
Insert: "matching funds for projects at Montana public universities"

6. Page 5, lines 23 and 24.
Strike: "1995"
Insert: "1997"
Following: "development" on line 23
Strike: remainder of line 23 through "loans" on line 24
Insert: "projects"

7. Page 5, line 26.
Following: "."
Insert: "As seed capital and mezzanine financing loans made pursuant to this subsection are repaid, the Montana board of science and technology development may reinvest the principal in new loans."

8. Page 6, line 4.
Insert: "**Section 11.** Section 90-3-524, MCA, is amended to read:

"**90-3-524. Research and development project loan agreement -- specific requirements -- payback.** In addition to the loan agreement provisions described in 90-3-522, a research and development project loan agreement must be structured as contracted debt with the following terms:

(1) The agreement must include provisions calling for a payback of at least ~~two~~ 1.5 times the original loan amount paid as a percentage of the income stream derived from the sale or other commercialization of products or processes developed with the board's financing as negotiated by the parties.

(2) The payback on a research and development project loan for a technology transfer and assistance project may be made pursuant to subsection (1) or may be realized in terms of indirect benefits related to the goals and criteria of the program. No more than 10% of the board's annual allocation of research and development funds may be used for technology transfer and assistance projects. The payback on a research and development project loan for a technology transfer and assistance project made from the permanent coal tax trust fund may not be repaid in terms of indirect benefits.

(3) The agreement between the board and the commissioner of higher education on the payback of a research and development project loan must guarantee a minimum annual payback of $250,000, commencing on June 30, 1994."

Renumber: subsequent sections

9. Page 6, line 10.

Insert: "NEW SECTION. **Section 14. {standard} Retroactive applicability.** [Section 11] applies retroactively within the meaning of 1-2-109, to loans made prior to [the effective date of this act]."

Free Conference Committee
on SB 38
Report No. 2, April 12, 1995

Mr. President and Mr. Speaker:

We, your Free Conference Committee on SB 38, met and considered:

SB 38 in its entirety

We recommend that SB 38 (reference copy - salmon) be amended further as follows:

1. Title, line 6.
Strike: "$4 MILLION"
Insert: "A PORTION"

2. Title, line 7.
Following: ";"
Insert: "REVISING THE ADMINISTRATION OF PERMANENT COAL TAX TRUST FUNDS FOR SEED CAPITAL AND RESEARCH AND DEVELOPMENT PROJECTS;"

3. Title, line 8.
Following: "AN"
Insert: "IMMEDIATE"

4. Page 2.
Following: line 21
Insert: "(1) "Board" means the Montana board of science and technology development provided for in 2-15-1818."
Renumber: subsequent subsections

5. Page 2, line 25.
Strike: "approving or denying"
Insert: "recommending to the board the approval or denial of"

6. Page 3, line 27.
Strike: "DEPARTMENT"
Insert: "board"
Strike: "SAME"
Insert: "most favorable"

7. Page 3, line 28.
Strike: "AS THE FINANCIAL INSTITUTION PARTICIPATING IN THE"
Insert: "possible on any"

ADOPT

REJECT

SB 38
FCCR#2
841355CC.SRF

8. Page 4, line 17.
Strike: "approve or disapprove loans"
Insert: "recommend to the board the approval or disapproval of loans"

9. Page 5, lines 9 and 10.
Following: "~~(3)~~" on line 9
Strike: remainder of line 9 through "(4)" on line 10
Insert: "and (3)"

10. Page 5, line 20.
Strike: "$11.5"
Insert: "$12.5"

11. Page 5, line 21.
Following: "loans"
Insert: "or mezzanine financing loans"
Strike: "$8.1"
Insert: "$11.1"

12. Page 5, line 22.
Strike: "loans" through "3"
Insert: "matching funds for projects at Montana public universities"

13. Page 5, lines 23 and 24.
Strike: "1995"
Insert: "1997"
Following: "development" on line 23
Strike: remainder of line 23 through "loans" on line 24
Insert: "projects"

14. Page 5, line 26.
Following: "."
Insert: "As seed capital and mezzanine financing loans made pursuant to this subsection are repaid, the Montana board of science and technology development may reinvest the principal in new loans."

15. Page 5, lines 27 through 30.
Strike: subsection (4) in its entirety
Renumber: subsequent subsection

16. Page 6, line 9.
Strike: "July 1, 1995"
Insert: "on passage and approval"

And that this Free Conference Committee report be adopted.

For the Senate:

Chair

Amd. Coord.

Sec. of Senate

For the House:

Chair

SENATE BILL NO. 38

INTRODUCED BY BENEDICT

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE JOB INVESTMENT ACT; AUTHORIZING THE DEPARTMENT OF COMMERCE TO ADMINISTER ~~$8 $4 MILLION~~ A PORTION OF THE PERMANENT COAL TAX TRUST FUND FOR LOANS TO BUSINESSES TO CREATE ~~OR~~ AND RETAIN JOBS; REVISING THE ADMINISTRATION OF PERMANENT COAL TAX TRUST FUNDS FOR SEED CAPITAL AND RESEARCH AND DEVELOPMENT PROJECTS; AMENDING SECTION 17-6-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4 5] gives the department of commerce authority to adopt administrative rules for the administration of the Job Investment Act. The act is intended to provide funding for loans to Montana businesses as part of a financing package to permit business expansion ~~and~~, job creation, AND JOB RETENTION. The act is intended to expand the current capabilities of the economic development portion of the federal community development block grant program, which is highly effective but satisfies only a small portion of the existing need.

The job investment loans are intended to provide a portion of the financing necessary to permit business expansion ~~and~~, job creation, AND JOB RETENTION and may be used only in conjunction with equity and other debt financing in cases in which other funding would not satisfy the total need and would not be available without additional financing under the Job Investment Act.

The community development block grant program has also been used to leverage other forms of public and private financing to support job expansion and retention. The approximately $2.6 million of community development block grant program economic development funding for the current fiscal year amounts to funding for less than one-half of the funding requests received during the first 4 months of the current fiscal year. If annualized, this year's funding experience would result in requests in excess of $10 million. There is opportunity for significant economic impact from an expansion of the state's investment in projects that create AND RETAIN jobs which would not be fully funded from existing sources.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through ~~8~~ 9] may be cited as the "Job Investment Act".

NEW SECTION. **Section 2. Legislative findings -- purpose.** (1) The legislature finds and declares that:

(a) it is the policy of the state to foster and encourage economic development within the state in order to promote the general welfare of the people; AND

(b) access to capital for the creation, expansion, and retention of qualified businesses, particularly for working capital, is a serious problem that inhibits the growth of businesses, jobs, and tax revenue~~; and~~

~~(c) the public sector and the private sector are constrained from satisfying the financial needs of small businesses because of federal and state financial regulatory rules and practices~~.

(2) The purpose of [sections 1 through ~~8~~ 9] is to create a job investment program that encourages and assists in the creation, development, and financing of businesses whose primary obstacle to expansion or retention of employment is access to the appropriate type and amount of financing. This financial need is particularly acute in areas of the state that are economically depressed, and emphasis should be given to projects that will be located in these areas if the projects meet the requirements of [sections 1 through ~~8~~ 9] and rules adopted pursuant to [section ~~4~~ 5] and meet acceptable levels of financial risk as determined by the loan review committee.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through ~~8~~ 9], unless the context requires otherwise, the following definitions apply:

(1) "BOARD" MEANS THE MONTANA BOARD OF SCIENCE AND TECHNOLOGY DEVELOPMENT PROVIDED FOR IN 2-15-1818.

~~(1)~~(2) "Department" means the department of commerce provided for in 2-15-1801.

~~(2)~~(3) "Loan review committee" means the committee that is established by the department to consider economic development loan applications for funding by the federal community development block grant program and that is responsible for reviewing and ~~approving or denying~~ RECOMMENDING TO THE BOARD THE APPROVAL OR DENIAL OF job investment loans subject to [sections 1 through ~~8~~ 9] and rules

implementing [sections 1 through ~~8~~ 9].

~~(3)~~(4) "Qualified business" means a business enterprise that either is or will be located in the state and that produces goods or provides services that will, as a result of receiving a job investment loan, create jobs for Montana workers.

NEW SECTION. **SECTION 4. LOAN APPLICANT ENDORSEMENT.** APPLICANTS FOR JOB INVESTMENT LOANS MUST BE ENDORSED BY LOCAL GOVERNMENT ENTITIES OR LOCAL ECONOMIC DEVELOPMENT CORPORATIONS.

NEW SECTION. **Section 5. Rulemaking authority.** The department shall adopt rules to implement the provisions of [sections 1 through ~~8~~ 9], including rules:

(1) determining the amount of interest and the method of computation and payment of interest charged to recipients of job investment loans and specifying amortization schedules and other terms and conditions for job investment loans as necessary. The rate of interest charged on a loan may not be less than the prevailing market rate.

(2) establishing criteria for determining nonperformance and declaring default for a job investment loan;

(3) specifying security and collateral requirements that must be met as a condition of receiving a job investment loan;

(4) encouraging financial institutions to participate to the greatest extent possible in the financing of job investment projects;

(5) requiring ~~at least 50% of project funding to come from equity or debt sources other than a job investment loan; and~~ ~~THAT THE PERCENTAGE OF PROJECT FUNDING THAT MUST COME FROM SOURCES OTHER THAN A JOB INVESTMENT LOAN BE A MINIMUM OF 50% WHEN A JOB INVESTMENT LOAN DOES NOT EXCEED $100,000 AND 67% FOR A MAXIMUM JOB INVESTMENT LOAN OF $500,000. LOAN PARTICIPATION FROM SOURCES OTHER THAN A JOB INVESTMENT LOAN MUST BE IN INCREASING INCREMENTS OF .0425% OVER THE MINIMUM 50% FOR EVERY $1,000 OF A JOB INVESTMENT LOAN IN EXCESS OF $100,000, AND THE FUNDS FROM OTHER SOURCES MUST INCLUDE A LOAN FROM A FINANCIAL INSTITUTION.~~ THAT THE JOB INVESTMENT LOAN MAY NOT EXCEED THE FUNDING PROVIDED BY PRIVATE LENDERS AND THAT AT LEAST ONE PRIVATE LENDER MUST BE A

FINANCIAL INSTITUTION. ~~THE DEPARTMENT SHALL SECURE THE MOST FAVORABLE COLLATERAL POSITION POSSIBLE ON ANY JOB INVESTMENT LOAN.~~ THE ~~DEPARTMENT~~ BOARD SHALL SECURE THE ~~SAME~~ MOST FAVORABLE COLLATERAL POSITION ~~AS THE FINANCIAL INSTITUTION PARTICIPATING IN THE~~ POSSIBLE ON ANY JOB INVESTMENT LOAN.

(5) establishing appropriate loan loss reserves; and

~~(6)~~(7) providing for an application process and a loan review process THAT:

(A) INCORPORATE THE FUNDING CRITERIA ADOPTED BY THE DEPARTMENT TO IMPLEMENT THE FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM PURSUANT TO 90-1-103(5);

(B) MINIMIZE THE AMOUNT OF JOB INVESTMENT ACT FUNDS REQUIRED; AND

(C) REQUIRE FINANCIAL INSTITUTION REVIEW AND CONTINGENT APPROVAL OF THE PROJECT BEFORE JOB INVESTMENT ACT FUNDS ARE COMMITTED.

NEW SECTION. **Section 6. Job investment administrative account.** There is a job investment administrative account in the state special revenue fund. The department shall deposit ~~all loan origination fees, all service charges, and~~ up to ~~2%~~ 20% of interest payments on job investment loans into the account. Money in the account must be used to pay the costs of administering [sections 1 through ~~8~~ 9], including personnel costs, operating costs, and administrative costs.

NEW SECTION. **Section 7. Loan review committee -- conflict of interest -- servicing of loans.** (1) The department shall establish a loan review committee to administer [sections 1 through ~~8~~ 9]. The committee shall accept and review loan applications pursuant to rules adopted by the department. The committee shall ~~approve or disapprove loans~~ RECOMMEND TO THE BOARD THE APPROVAL OR DISAPPROVAL OF LOANS. A loan may not exceed $500,000.

(2) ~~A~~ IF A member of the ~~department or the loan review~~ committee ~~who~~ has a financial interest in a business that submits a job investment loan application ~~shall disclose the interest and abstain from any involvement in the application, due diligence, and approval processes~~, THEN THE APPLICATION MUST BE DENIED.

(3) The department ~~may~~ SHALL contract for the servicing of loans.

NEW SECTION. **Section 8. Legislative oversight.** The department shall report to the revenue

oversight committee annually on the performance of the job investment program. The report to the committee must include:

(1) a summary of all loans made during the year;

(2) an analysis of job creation goals and performance;

(3) a summary of loan terms and conditions;

(4) a summary of funds leveraged with job investment loans; and

(5) an analysis of the job investment portfolio performance including calculations for returns on investments.

NEW SECTION. **Section 9. Grants, gifts, and donations.** The department may accept grants, gifts, and donations for purposes of [sections 1 through ~~8~~ 9]. The department may expend the funds pursuant to laws and conditions governing the funds.

Section 10. Section 17-6-308, MCA, is amended to read:

"**17-6-308. Authorized investments.** (1) Except as provided in subsections (2) ~~and (3)~~ ~~through~~ ~~(4)~~ AND (3) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions ~~as~~ determined by the board ~~determines~~ and must be repaid from ~~revenues of the board~~ revenue realized from the exercise of ~~its~~ the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the ~~revenues~~ revenue to the bonds and notes.

(3) The board shall allow the Montana board of science and technology development, provided for in 2-15-1818, to administer ~~$15.5~~ ~~$11.5~~ $12.5 million of the permanent coal tax trust fund for seed capital project loans OR MEZZANINE FINANCING LOANS and ~~$8.1~~ $11.1 million of the permanent coal tax trust fund for research and development project ~~loans pursuant only to the provisions of Title 90, chapter 3~~ MATCHING FUNDS FOR PROJECTS AT MONTANA PUBLIC UNIVERSITIES. This authority does not extend beyond June 30, 1997, for seed capital project loans and beyond June 30, ~~1995~~ 1997, for research and

development ~~project loans~~ PROJECTS. Until the Montana board of science and technology development makes a loan pursuant to the provisions of Title 90, chapter 3, the funds under its administration must be invested by the board ~~of investments~~ pursuant to the provisions of 17-6-201. AS SEED CAPITAL AND MEZZANINE FINANCING LOANS MADE PURSUANT TO THIS SUBSECTION ARE REPAID, THE MONTANA BOARD OF SCIENCE AND TECHNOLOGY DEVELOPMENT MAY REINVEST THE PRINCIPAL IN NEW LOANS.

~~(4) The board shall allow the department of commerce to administer $8 $4 million of the permanent coal tax trust fund for job investment loans pursuant to [sections 1 through 8 9]. As loans are repaid, the department of commerce may reinvest the principal in new loans. Until a loan is made, the board shall invest the funds pursuant to 17-6-201.~~

~~(4)~~(5) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations."

NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through ~~8~~ 9] are intended to be codified as an integral part of Title 17, chapter 6, and the provisions of Title 17, chapter 6, apply to [sections 1 through ~~8~~ 9].

NEW SECTION. **Section 12. Effective date.** [This act] is effective ~~July 1, 1995~~ ON PASSAGE AND APPROVAL.

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